

JOHN MADEY

# **ORIENTALIUM ECCLESIARUM**

**MORE THAN TWENTY YEARS AFTER**

**A New Commentary on Vatican II's  
Decree on the Oriental Catholic Churches**

**PONTIFICAL ORIENTAL INSTITUTE OF RELIGIOUS STUDIES  
VADAVATHOOR, KOTTAYAM, 686 010, KERALA, INDIA  
EASTERN CHURCHES SERVICE PUBLICATIONS  
PADERBORN, WEST GERMANY**



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No. 110

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**John Madey**

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*Dedicated with fraternal affection to*

**ALL THOSE BRETHREN**

*who have taught me to love*

**THE ORIENTAL CATHOLIC CHURCHES**



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## PREFACE

It is for me an agreeable task to accept the invitation of writing the preface for the new commentary on '*Orientalium Ecclesiarum, More than Twenty Years After*', by Professor John Madey.

And this for two reasons:

(1) Professor Madey is not only a personal friend of mine, but also a friend who is throughly devoted to the Oriental Churches.

(2) Further, I, too, had played a modest role at the promulgation of the decree *Orientalium Ecclesiarum* on November 21, 1964, and later in regard to its application. This does not mean that I am a specialist in the matter, and this is not the chief reason why the author has turned to me for a Preface.

The readers of this book will note for themselves that Professor Madey, as a perfect expert loves his subject. Like a surgeon with masterly knowledge of the human anatomy, the author skilfully dissects the articles of the conciliar decree point by point, sometimes sentence by sentence, in order to better elaborate the sense or to explain a word which could appear, at a first glance, too vague... I shall quote but one example, among so many. It refers to the decree's first word: "The Catholic Church". At first sight, the inattentive reader might think that this means "the (Latin or Roman) Catholic Church" which is here bearing witness of its paternal benevolence towards the Oriental Churches. Well, we have to do here, and Professor Madey makes it quite evident, with the Oriental Churches, full-fledged members of the Catholic Church, equal in dignity to the Roman (or Latin) Church. Throughout the commentary, we will find similar remarks which illustrate in a perfect manner what I have stated and which redound to the credit of the author.

If I may be allowed a personal reminiscence in the Preface, I shall never forget the days, or rather the last hours, before the promulgation of the Decree concerning the Oriental Churches. During the preceding sessions, certain parts of the decree had found their place along with other decrees. Then, at a fourth session, the text was submitted to the Fathers a large majority of whom expressed their disapproval, which however, failed to get it rejected. Several Oriental Fathers did not hesitate to make evident its deficiencies, especially in regard to what our Orthodox brethren might hope to find therein.

It was then that, after having discussed the matter with Maximos IV, some of our bishops came to the conclusion that, if the decree were rejected, our Oriental Churches would go out of the council, because of lack of time, rather with empty hands... It was decided therefore to intervene immediately. I was charged to make plain, in the Bula, that our church, with Maximos IV as its head, was in favour of the approbation of the decree which, of course, would concern only the Oriental Catholic Churches; in the case of a Union, new texts would have to be promulgated. Certain Fathers, even of the Oriental Churches, were not happy with this. But I recall that Cardinal Cicognani and those who had prepared the text were very grateful to us. The decree was finally approved by a large majority thanks to our Latin brethren who put their confidence in us! And Paul VI could promulgate it on November 21, 1964.

The advantages that our churches could have derived from the decree were delayed until a certain realization could become manifest. While other decrees had been put into practice ours remained, as regards its application, a dead letter. Only some years later did we come to understand that, as long as a new Code of Oriental Canon Law was not promulgated, we were to remain subject to certain canons of Pius XII, about which we have had numerous reservations.

We have published everything concerning the subsequent development in our review *Le Lien*, often quoted by Professor Madey, and at last we brought it to the knowledge of the universal church at the Extraordinary Synod of 1985, in the presence of His Holiness John Paul II. It is unnecessary to report



this in detail, as it is already mentioned in this commentary itself.

The new Code of Oriental Law has now reached its final phase and could possibly be published in 1988 or 1989. It is our wish that it should be faithful to Vatican II's Decree in letter as well as in spirit. The different studies published so far lead us to think that the new Oriental Code will doubtlessly be useful to our Oriental Catholic Churches, although it may not be entirely acceptable to our Orthodox brethren at the hour of Union.

Did this digression take us away from Professor Madey's commentary? A little bit! But this will perhaps serve towards a better understanding of what I have said in the beginning, of the truly "oriental" spirit in which this commentary was written by the author. I thank him for his labour of love and recommend his work most gladly.

Damascus  
February 18, 1987

† **Maximos V. Hakim**  
Patriarch of Antioch and all the  
East, of Alexandria and of Jerusalem



## Introduction

On November 21, 1964, Paul VI, "Bishop of The Catholic Church", approved, decreed and prescribed, "by the apostolic power given by Christ to us" and in union with the venerable Fathers of Vatican II, the Decree on the Oriental Catholic Churches. In signing this document, the same solemn formula was used, as it is the case with the Dogmatic constitution on the Church promulgated on the same day, and with the Decree on Ecumenism, of which certain texts originally had their place in our decree. They were later shifted to the Constitution on the Church and to the Decree on Ecumenism.

Although the author had written a small commentary on this decree for the first time in 1965<sup>1</sup> and a longer one in 1972<sup>2</sup>, he is of the opinion that now, a new commentary should be written in order to show what impact this decree had in the past twenty years and what remains to be done in order to give the Oriental Catholic Churches their due place in the Universal Church.

In the conclusion of the Pastoral Constitution on the Church in the modern world, of September 7, 1965, it is said:

"Drawn from the treasures of the teaching of the Church, the proposals of this Council are intended for all men... Faced with the variety of situations and forms of human

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1. Das Konzilsdekret über die katholischen Ostkirchen. Ein nicht unkritischer Kommentar: *Begegnung* 20 (1965) 356-360. 287-290.
  2. Vatican Council II's Decree on the Eastern Catholic Churches and Its Ecumenical Importance: *Diakonia* 7 (Bronx, NY, 1972) 222-251; cf. *The particular Oriental vocation of the Nazrani Church in communion with Rome*, Alleppey (Kerala, India) 1976, 34-73.

culture in the world, this conciliar programme is deliberately general on many points; while the teaching presented is that already accepted in the Church, it will have to be pursued further and amplified because it often deals with matters which are subject to continual development.”<sup>3</sup>

In the Extraordinary Synod of Bishops held in Rome in 1985, the then Maronite Patriarch of Antioch and All the East, Mar Antoon Butros Khoraiiche, put forward this fact pointing particularly to the development of the Eastern Churches under the political circumstances of the Near East which could not be foreseen by the Fathers of Vatican II.

The interventions of many of the Oriental hierarchs during the Extraordinary Synod of Bishops were certainly an eye-opener to many bishops and faithful of the Latin or Western Church for whom the Oriental Catholic Churches, because of their numerical weakness have remained somehow on the periphery. It is, however, to be stressed that their presence in the Universal Church makes us aware that the *Catholic Church* is much more than the Roman Catholic Church. What is essential, according to the teaching of the Catholic Church, is to be *in communion with Rome*, which is the primatial see of Peter honouring his martyrdom, but not to be Roman Catholic.

The Oriental Catholic Churches are making the Universal Church more Catholic than the Roman Catholic Church would be able to do. They are not Roman, but in communion with the Roman Church, as the Apostles were not Peter, but in communion with Peter.

Vatican II has awakened the conscience to recognize the individuality of the Oriental Catholic Churches, but this individuality has to be rediscovered by certain Orientals themselves. It goes far beyond rites and rights, it goes into the depths of the ecclesial being of each individual Church and its respective members.

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3. *Gaudium et Spes*, 91.

4. Les Eglises Orientales. Necessite et responsabilite pour ‘l’Eglise. Intervention de Son Eminence le Cardinal Antoine Pierre Khoraiiche, Patriarche des Maronites, au Synode des Eveques. Rome–November 1985 (Manuscript, p. 2).

# The Title of the Decree

The decree is usually referred to by its first two words, *Orientalium Ecclesiarum* (OE). Nevertheless we deem it necessary to say a few words about its full title, *On the Oriental Catholic Churches* (De Ecclesiis Orientalibus Catholicis).

The first draft proposed to the Council Fathers was entitled simply *De Ecclesiis Orientalibus*, but it seemed too ambiguous to the Fathers whose intention was not to deal with the Churches of Oriental tradition (s) in general, but exclusively with the Oriental Churches in full communion with Rome. They did not wish to bind in any manner the Oriental Churches outside the communion with Rome nor to make them feel obliged to follow the rules and prescriptions of the decree. In order to make this clear, the addition *Catholicis* was made.

This addition proves that the decree is valid exclusively in regard to those Churches of the East which already enjoy the ecclesial communion with St. Peter's Roman successor who, the Catholic Church believes, is the principle and guarantor of her unity and communion. Since this belief is shared by all Catholics of whatever tradition they may be, our decree applies only to certain portions of Eastern Christianity which are ecclesially and hierarchically united with the Roman Pontiff.

Although some legal dispositions of the decree apply to the Orthodox Churches<sup>1</sup> directly or indirectly, they are, in the present situation not bound to accept them. Vatican II simply wished to lay down general principles of a legislation for the Oriental Catholics according to the needs of the present time. It left the door open for a new, definite Oriental legislation, when the communion between the Catholic Church and the Oriental Churches will be restored. At that time, by another synodal

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1. We use the term "Orthodox Churches" indiscriminately for all those Oriental Churches which have not yet restored their full ecclesial communion with Rome, the first see of Christianity, universally recognised as such.

decision, Oriental Canon Law for the whole, united, Oriental Christianity could be codified. The need of such a codification is felt also among the non-Catholic Oriental Churches whose juridical collections are no longer suited to our time and often give rise to even contrary attitudes, solutions or sentences.

Until Vatican II, the Christian East was regarded often as one whole facing the Christian West. Even now, one may hear people speaking of the "Eastern Church". By using the plural *Eastern Churches*, our decree makes it clear that the term *rite* used with preference before Vatican II denotes much more than certain liturgical prescriptions. It embraces the whole physiognomy of a certain individual Church: its theology, spirituality, liturgy, modes of sanctification, discipline etc. Although a certain liturgical type may be used to classify a certain number of individual Churches, liturgy alone is not the criterion to define an individual Church. This is why the post-Vatican II Pontifical Commission for the Revision of the Oriental Canon Law has preferred to introduce, for the future legislation, the term *Ecclesia sui iuris* (Church of its own legal standing) thus ascribing to each Church its individuality and a certain autonomy.

This corresponds fully to the conscience of the Christian East which prays for "the well-being of the holy Churches of God and the union of all"<sup>2</sup>. "It is in these and formed out of them that the one and unique Catholic Church exists"<sup>3</sup>. Having in mind St. Augustine's saying "The Universal Church is the sum of the particular Churches", a theologian of our time, Louis Bouyer writes: "The Universal Church appears and exists only in the local Churches". And Cardinal Seper, then Prefect of the Roman Congregation for the Doctrine of the Faith, said: "The notion of communion as characterising the Church, is able to give the synthesis of the conciliar work in the field of ecclesiology".

One of the achievements of the new understanding was that the Congregation called so far *for the Eastern Church* has changed its name into the *Congregation for the Eastern Churches*.

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2. Litany of Peace in the Byzantine Divine Liturgy.

3. Conference for priests by Melkite Archbishop Kyr Joseph Tawil (Newton, U.S.A.) held in March 1985. see the French translation "Vingt ans apres": *Le Lien* 51/2 (Beirut 1986) 27-31, especially 29.

# Text and Commentary

## CHAPTER 1

### PREAMBLE

1. (a) *The Catholic Church holds in high esteem the institutions, liturgical rites, ecclesiastical traditions, and the discipline of the Christian life of the Eastern Churches.*

(b) *In them, namely, distinguished as they are for their venerable antiquity, there remains conspicuous the tradition that has been handed down from the Apostles through the Fathers and that forms part of the divinely revealed and undivided heritage of the universal Church.<sup>1</sup>*

(c) *This Sacred Ecumenical Council, therefore, in its care for the Eastern Churches which bear living witness to this tradition, in order that they may flourish and with new apostolic vigour execute the task entrusted to them, has determined to lay down a number of principles, in addition to those which refer to the Universal Church. All else is remitted to the care of the Eastern Synods and of the Apostolic See.*

We have divided the text of the preamble in three parts in order to get a better understanding of its meaning.

(a) The first sentence has been misunderstood and continues to be misunderstood by many. The ambiguity resides in the term "Catholic Church" (*Ecclesia catholica*) which for many Latin and latinized Oriental Catholics, consciously or unconsciously, is identified with the *Roman Catholic or Latin Church*. On the basis of such an understanding, the decree would seem to begin with a phrase reflecting a sort of paternalistic benevolence rather than a genuine appreciation. This ambiguity plays a role, however, only, if we read this sentence out of its context. This misunderstanding could certainly have been avoided, if, in the first

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<sup>1</sup>. Leo XIII. Litt. Ap. *Orientalium dignitas* of November 30, 1894: Leonis XIII Acta, vol. XIV, 201-202.

sentence, the term "universal Church" had been used as has been done in the second sentence (b) which is an amplification of (a).

After this explanation, it is irrelevant to ask: 'What is the Catholic Church in this context? What are the Oriental Churches? Are they inside or outside, or mere appendices to the Latin Church?' On the contrary, the first sentence could be equally applied to the Church of Rome, too, and it would be not at all false to assert: "The Catholic Church holds in high esteem the institutions... of the Roman (= Western or Latin) Church."

The late E. Stakemeier (+ 1970), an ecumenist of renown who was a peritus at Vatican II and a consultor to the Roman Secretariat for Christian Unity, points out, that this phrase is an 'inadequate distinction', "as single members of the body are distinguished from the same though they belong to and, in their totality, form the body"<sup>2</sup>. This statement seems clear, but it is rather insufficient, because it is questionable if the readers of the decree, especially those of the Latin tradition, used to identifying their Church *sui iuris* with the Catholic Church, are prepared to make such speculations.

But let us return to the text itself, because it contains a very essential statement. The Universal Church holds in high esteem everything pertaining to the Oriental Churches: their institutions, liturgical rites, ecclesiastical traditions, discipline of Christian life, etc. This means that not only the liturgical but the heritage as a whole is acknowledged and respected. Latinization of the liturgical rites was, in the past, if not openly fostered, at least tolerated.<sup>3</sup>

Over a century ago, on February 17, 1870, Pope Pius IX had said the Oriental rites should remain, as they were. "I see here Oriental prelates. They may be appeased. They will retain their venerable and sacred forms of their rite. I do aspire one thing only, that we achieve a better agreement of disciplinary

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2. Carlo Snider, "Pius IX and the autonomy of the particular Churches of the East" (in Italian), quoted by J. P. de Gandt. "Le Pape Pie IX et le Patriarche Gregoire II Youssef: *Le Lien* 51/2 (1986) 40.
  3. E. Stakemeier, *Die Konzilsdekrete "uher den ukumenismus, uber die katholischen Ostkirchen"*, Munster 1965, 76.



uniformity. With regard to the different forms < of worship >, they should, in any case, not be changed.”<sup>4</sup> This Pope had certainly not a clear view in regard to the historical importance and the spiritual and doctrinal value of the Oriental Churches, their rights and traditions.

In this context, we have to mention the Apostolic Bull *Reversurus* of July 12, 1867, which, in our opinion, is to be considered one of the saddest incidents in the inter-ecclesial relations between the Holy See of Rome and the Oriental Catholic Churches, particularly the patriarchal Churches of the Near East.

Originally addressed to the Armenian Catholic Church, in union with Rome since 1742, the bull found a wide echo in all the Eastern Churches of the Near East. The Armenian clergy and faithful were forbidden to take part, henceforth, in the election of their patriarch and bishops; they were even deprived of the right of preparing a list with the names of eventual episcopal candidates, as it had had been their age-old practice. The Armenian Catholic Patriarch and his synod were to present lists of episcopal candidates, three for each eparchy, but the Pope reserved for himself the right to appoint freely one presented to him by the Congregation for the Propagation of Faith (*Propaganda Fide*), then in charge also of the Oriental Churches. Besides, the patriarch was not allowed to be enthroned after his election; he had to await papal confirmation in consistory and was obliged to make his visit “*ad limina*” every fifth year.

These dispositions were considered as a step towards latinization taken by the Roman curia with a view to the progressive absorption of the Oriental Churches.

In August 1867, the prescriptions of the bull were extended to the Chaldean Church, too, and caused dramatic reactions there. “In effect, Pius IX wished to extend the dispositions of the bull also to other Churches, particularly to the Maronite Church and the Melkite Church, but the immediate and resolute intervention of the Patriarchs Paul Massaad and Gregorios II Youssef made him renounce, for the time being, such a project.”

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4. C. Snider, *l. c.* 39.

We have described this event at some length to illustrate the fact that Vatican II has made an end, at least in theory, to the false and offensive principle of a so-called 'preeminence of the Latin (Roman) rite' because of its being the rite of the Roman Pontiff.

(b) The Council Fathers acknowledge explicitly that, in the Oriental Churches, "there remains conspicuously the tradition that has been handed down from the Apostles through the Fathers', perhaps even more conspicuously than in the Western Church which, isolated from the Christian East for centuries, has given much stress to other aspects of life and doctrine under the pressure of certain concrete needs of history, especially those dictated by the protestant reformation and counter-reformation which lead to the council of Trent.

"To the Orientals, the immediate image of the Church as sacramental, eucharistic organism and as a social organism is given by their ecclesiastical discipline, their rites, the particularity of their doctrinal patrimony and by their canonical instruments in view of the unitary cohesion of the faith; finally, this image is given to them by the connection of the rational and cultural fact with the historical and cultural reasons which, since the apostolic era, have contributed to the canonical constitution of their particular Churches which preserve till our days their rite and disciplinary autonomy in face of the Latin Church."<sup>5</sup>

The Universal Church cannot and may not dispense herself from this patrimony of the Orientals which she considers as forming part of her "divinely revealed and undivided heritage".

The Council Vatican II supplements this statement by what it says in the Decree on Ecumenism *Unitatis Redintegratio*:

*"For many centuries the Churches of the East and of the West went their own ways, though a brotherly communion of faith and sacramental life bound them together. If disagreements in faith and discipline arose among them, the Roman See acted by common consent as moderator.*

*This Council gladly reminds everyone of one highly significant*

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5. *Ibid.* 37.

*fact among others: in the East there flourish many particular local Churches; among them the Patriarchal Churches hold first place, and of them many glory in taking their origins from the apostles themselves. Hence, of primary concern and care among the Orientals has been, and still is, the preservation in a communion of faith and charity of those family ties which ought to exist between local Churches, as between sisters.*

*From their very origins the Churches of the East have had a treasury from which the Church of the West has drawn largely for its liturgy, spiritual tradition and jurisprudence. Nor must we underestimate the fact that the basic dogmas of the Christian faith concerning the Trinity and the Word of God made flesh from the Virgin Mary were defined in Ecumenical Councils held in the East. To preserve this faith, these Churches have suffered, and still suffer much.*

*However, the heritage handed down by the apostles was received differently and in different forms, and that from the very beginnings of the Church its development varied from region to region and also because of differing mentalities and ways of life. These reasons, plus external causes, as well as the lack of charity and mutual understanding, left the way to divisions.*

*For this reason the Council urges all, but especially those who commit themselves to the work for the restoration of the full communion that is desired between the Eastern Churches and the Catholic Church, to give due consideration to this special feature of the origin and growth of the Churches of the East, and to the character of the relations which obtained between them and the Roman See before the separation, and to form for themselves a correct evaluation of the facts.”<sup>6</sup>*

Pope Pius XII had referred to the Oriental patrimony when he resolved the controversy on the form of ordination: the priestly ordination does not become effective by the remittance of the instruments (chalice and paten), but solely by the imposition of hands. When Latin priests were granted the faculty to administer the sacrament of Confirmation (Chrismation), equal reference was made to the customs of the Eastern Churches where the priest is the ordinary administrator of this sacrament using

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6. *Unitatis Redintegratio.*

the chrism consecrated by the patriarch or bishop. In the definitions of the dogmas of the Immaculate Conception of the Virgin Mary, i.e. her particular election from the first moment of her life, and of her Assumption into heaven after her death, with body and soul, the testimony of the Oriental Churches and their Fathers had a prominent part.

Thus the discriminating prescriptions for certain regions<sup>7</sup>, where Oriental priests were not allowed to administer the sacrament of chrismation (South Italy and Maronites in the 17th century, Chaldeo-Malabarians under the Latin bishops), are no longer of any value, as they are objectively wrong and illegitimate. The administration of confirmation separately from Baptism, is to be considered, in the Oriental Churches, as an exception; normally baptism and chrismation are administered together.

c) Vatican II expresses its desire that the Oriental Churches, being witnesses of this tradition "flourish and with renewed apostolic vigour execute the task entrusted to them". It establishes, therefore, certain principles to be observed also in drafting a new Code of Oriental Canon Law which, at present, is still in the stage of preparation of a definite text. Like the Church of Rome herself, the Oriental Churches are really Churches which are 'sources', from which other Churches have drawn their life. The Council's statement is here rather general. It does not intend to decide on everything pertaining to the Oriental Churches, but leaves details to the care of the Oriental synods and of the Apostolic See.

Under the expression 'Apostolic See', the Roman Pontiff and the dicasteries of the Roman Curia are meant. In our commentary of 1972<sup>8</sup>, we wrote: "In the past and, sometimes, even at present, these dicasteries of the Roman Curia had and have no felicitous history in treating matters touching the life of the Eastern Churches. We should have preferred if the Father omitted the said restriction or had it limited to the personal office of the Roman Pontiff exercising the succession of the primacy of St. Peter."

7. Cf. W. de Vries, *Rom und die Patriarchate des Ostens* (= *Orbis Academicus* III/4), Freiburg-Munich 1963, 187. 190. 196ff. 200. 206. 208. 213. 303.

8. See *The particular Oriental Vocation of the Nazrani Church in Communion with Rome*, Alleppey 1976, 38.

The Oriental Churches are governed, traditionally, (a) by their own particular law enacted by their synods, and (b) by laws issued by the Roman Pontiff's and his curia. To the latter belong, at present, also the four collections of canons published under Pope Pius XII in the form of the

- 1) Motu proprio *Crebrae allatae* (1949) containing the Law of Marriage,
- 2) Motu proprio *Sollicitudinem Nostram* (1950) treating the processive law,
- 3) Motu proprio *Postquam Apostolicis* (1952) containing the canons on Religious, the canons on the temporal goods of the Church and a glossary of canonical terms,
- 4) Motu proprio *Cleri sanctitati* (1957) containing the law on persons.

Although Cardinal Massimo Massimi, president of the preparatory commission, had said in 1939, "When this code will appear, every Oriental will cry out: 'Yes, truly, this is our code, this is our law, this is the voice of our Fathers'"<sup>9</sup>, the spirit of this legislation was far from the aspired end.<sup>10</sup>

c) Laws affecting the entire Church in the same manner, are binding the Oriental Churches as well as

d) the present Decree on the Oriental Catholic Churches.<sup>11</sup>

It seems that the dispositions of the decree have irritated even high members of the Roman Curia. A high dignitary of one of the Roman dicasteries, replied to objections which Patriarch Maximos V had drawn from the Vatican II's documents: "Here, there is no council! (*sic!*). There is Canon Law!" And the Melkite patriarch continues: "Sure, I was scandalized, but I understood why John XXIII convoking the council, established, at the same moment, the Commission for the revision of the Latin Canon Law... I then sought assistance with the dear Jesuit Fathers of the Oriental Institute in Rome. They helped me. I quote that among them whom the Lord called to Him, Father Raes. A

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9. Melkite Greek-Catholic Patriarchate, *Die Stimme der Ostkirche*. Freiburg-Vienna 1962, 156f.

10. J. Madey, "The Status of the Oriental Catholic Churches on the Eve of Vatican II: *The particular Oriental Vocation* 20ff.

11. M. M. Wojnar, *Decree on the Oriental Catholic Churches*, Washington 1965, 177 (= Reprint from *The Jurist*: XXV/2).

documented note was carefully prepared. I remitted it to Pope Paul VI of venerated memory... A few days later, the members of the Commission for the revision of the Oriental Law were appointed. The Commission has done a good work. Thanks to the three Vice-Presidents who have succeeded each other and who possess our confidence... the revision progresses slowly." (This was reported by the Patriarch in the Extraordinary Synod of 1985).

## CHAPTER II

### THE PARTICULAR CHURCHES OR RITES

2. (a) *The holy and Catholic Church which is the Mystical Body of Christ, is made up of the faithful who are organically united in the Holy Spirit by the same faith, the same sacraments and the same government. They combine into various groups which are held together by a hierarchy, and so form separate Churches or Rites.*

(b) *Between them there is such a wonderful bond of unity that this variety within the Church in no way harms their unity, but rather manifests it; for it is the mind of the Church that the traditions of each individual Church or Rite shall remain whole and entire, and likewise she wishes that they should adapt their way of life to the changing needs of time and place.<sup>2</sup>*

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2. St. Leo, Litt. *In terra pax*, 1053: "Ut enim"; Innocent III, IV Lateran Synod, 1215, ch. IV: "Licet Graecos"; Litt. *Inter quatuor*, August 2, 1206: "Postulasti postmodum"; Innocent IV, Ep. *Cum de cetero*, August 27, 1247; Ep. *Sub catholicae*, March 6, 1254, preface; Nicholas III, Instruction *Istud est memoriale*, October 9, 1278; Leo X, Litt. Ap. *Accepimus nuper*, May 18, 1521; Paul III, Litt. Ap. *Dudum*, December 23, 1534; Pius IV, Const. *Romanus Pontifex*, February 16, 1564, § 5; Clement VIII, Const. *Magnus Dominus*, December 23, 1595, § 10; Paul V, Const. *Solet circumspecta*, December 19, 1615, § 3; Benedict XIV, Ep. Enc. *Demandatum*, December 24, 1743, § 3; Ep. Enc. *Allatae sunt*, June 26, 1755, §§ 3, 6-19, 32; Pius VI, Litt. Enc. *Catholicae communionis*, May 24, 1787; Pius IX, Litt. *In suprema*, January 6, 1848, § 3; Litt. Ap. *Ecclesiam Christi*, November 26, 1853; Const. *Ramani Pontificis*, January 6, 1862; Leo XIII, Litt. Ap. *Praeclara*, June 20, 1894, no. 7; Litt. Ap. *Orientalium dignitas*, November 30, 1894, preface; etc.

This article stresses the essential characteristics of Rite. The two terms 'particular Church' or 'Rite' have the same meaning. The decree has in mind here rather the canonical rite than the liturgical rite, although the latter, for practical reasons, may serve as a means to classify the different particular Churches from which some have many things in common. Since 'particular Church' is used in other synodal documents to describe a diocese, e. g. in the Constitution on the Church *Lumen gentium*, and the term 'Rite' may be understood in a too narrow sense, the Pontifical Commission charged with the work of the revision of the Oriental Canon Law, has introduced the term of Church *sui iuris* to designate an 'individual' Church, as it is understood by this decree.

Not every group of faithful may be, therefore, considered as a 'particular' Church. The Council Fathers mention the absolutely necessary elements: the same faith, the same (seven) sacraments (mysteries), and the same government. The individual groups are held together by a hierarchy.

As regards the faith, it must be essentially the faith of the universal Church which, ofcourse, may be expressed differently, but there may not be contradictions in expounding the revealed truth. This is why Protestant denominations or communities cannot form 'individual' or 'particular' Churches of the universal Church.

The seven sacraments are a common good of the universal Church: Baptism, Chrismation (Confirmation), Eucharist, Penance, Anointment of the sick, Priesthood and Matrimony. The designation of the sacraments may, however, differ in language.

The hierarchical government means, in the first line, the existence of a bishop who is in the apostolic succession. The threefold structure of the sacrament of Priesthood comprising episcopate, presbyterate and diaconate conferred by the imposition of hands is the criterion. It is not enough that they exist in name only.

The hierarchy of an 'individual' Church is independent of other hierarchical organizations and subject only to the Bishop of Rome in his capacity of Supreme Pastor. Being concelebrants of the Roman Pontiff, the hierarchy of one 'individual' Church

is in communion with the hierarchies of all the 'individual' Churches who equally enjoy the communion with the bishop of Rome. It is indeed through the Eucharist that the individual Churches are bound together in the universal Church.

It may be, for some, surprising that a liturgy of its own is not mentioned as one of the differentiating elements, nor the spiritual heritage or a particular canon law. In effect, these are not the essential elements to make a Church 'individual' or to form a Church *sui iuris*, as there may be and there exist.

a) Churches having the same liturgy, rather the same spiritual heritage and canon law, but nevertheless form 'individual' Churches of their own, as e.g. the Ukrainian and the Ruthenian Churches, the Syrian and the Malankara Churches, etc.;

b) different liturgical rites in one and the same 'individual' Church, as is the case in Roman Catholic 'individual' Church. There we find the Roman liturgical rite proper, the rite of Milan, the Mozarabic rite in Toledo, Spain, the rite of the Carthusians, the rite of the Order of Preachers (Dominican rite), etc. None of these liturgical rites constitutes an 'individual' Church or a Church *sui iuris*. The same has to be applied to the recent Anglican rite which is similar to that of the 'Book of Common Prayer' and used by former parishes of the Anglican Communion in the United States turned Catholic.

Liturgy, spiritual heritage and canon law point to the very origins of a Church *sui iuris*, or to the original Mother-Church, but they do not take into consideration the actual *esse* (being) of a certain 'individual' Church.

As early as in 1942, E. Herman gave a definition of *Rite* which comes close to our understanding of 'individual' Church or *Ecclesia sui iuris*:

"A rite is a group of faithful who are governed by laws and customs of their own, based on ancient traditions, not only in regard to liturgical matters, but also in respect to the canonical order, and which group is acknowledged by the Holy See as autonomous and distinct from others."<sup>1</sup>

1. "De conceptu 'ritus'": *The Jurist* II (1942) 340, quoted from V. J. Pospishil, *Orientalium Ecclesiarum: The Decree on the Eastern Catholic Churches of the II Council of Vatican*, Bronx (New York) 1965, 12.



Which are the Churches *sui iuris* “acknowledged by the Holy See”?

1. The Roman Catholic Church	Liturgy: Roman (Latin)
2. The Coptic Church of Alexandria	Liturgy: Coptic (Alexandrian)
3. The Greek-Melkite Church of Antioch, of Alexandria and Jerusalem	Liturgy: Byzantine
4. The Syrian Church of Antioch	Liturgy: Syro-Antiochean
5. The Syro-Maronite Church of Antioch	Liturgy: Syro-Maronite
6. The Assyro-Chaldean “Church of the East” (of Babylone)	Liturgy: East Syriac
7. The Armenian Church of Cilicia	Liturgy: Armenian
8. The Ukrainian Church	Liturgy: Byzantine
9. The Romanian Church	Liturgy: Byzantine
10. The Syro-Malankara Church	Liturgy: Syro-Antiochean
11. The Ethiopian Church	Liturgy: Ethiopian (Alexandrian)
12. The Ruthenian Church	Liturgy: Byzantine
13. The Chaldeo-Indian (Malabar) Church	Liturgy: East Syriac
14. The Slovak Church	Liturgy: Byzantine
15. The Hungarian Church	Liturgy: Byzantine
16. The Italo-Albanese Church	Liturgy: Byzantine
17. The (multinational) Church of Krizevci	Liturgy: Byzantine
18. The Bulgarian Church	Liturgy: Byzantine
19. The Greek (Hellenic) Church	Liturgy: Byzantine
20. The Russian Church	Liturgy: Byzantine
21. The Byelorussian Church	Liturgy: Byzantine
22. The Albanian Church	Liturgy: Byzantine

Hence there are 22 Churches *sui iuris* of which 21 are Oriental and one Occidental.<sup>2</sup> Many share the same liturgical and spiritual traditions, as we have indicated above, and they worship God in many languages.

2. Cf. *Annuario Pontificio* 1985, Vatican City 1986, 1025-1028.

b) Between the different Churches *sui iuris*, there exists an admirable bond of unity. None is superior to the others because of its numerical strength. No tradition is considered to be of less worth and cannot be neglected without impoverishing the Universal Church. The different expressions of the same faith and the variety of the ways of life are not a contradiction of the Universal Church's unity, but its manifestation. This is why the traditions of each 'individual' Church are to remain intact and unaltered. This is to be applied to all the aspects of ecclesial life: to liturgy as well as to canon law. There is still a default of consciencization, especially among those Orientals whose Churches have been most latinized in the past. For them, the Roman Catholic Church seems still to be the model Church to which they are trying to adapt themselves out of an inferiority complex inculcated in them in course of a Latin training, especially in seminaries run by Latin missionaries. Frequent references to the *Codex Iuris Canonici*, although it is meant *solely for the Latin Church*<sup>3</sup> could and can be found even in the episcopal chanceries' official publications meant for the pastors. This is certainly in contradiction to the mind of the Vatican II through which the Universal Church is speaking. It is matter of course that the Oriental Churches are no museum pieces, but living organisms. They are not the object of studies for historians of the Antiquity only! Therefore the Fathers of Vatican II do not only wish, but encourage a development of the Oriental Churches that they be able to meet with the *changing needs* of time and place.

This development, however, must be an organic one, i.e. remain within the proper tradition of each 'individual' Church and not a blind imitation of developments found elsewhere, as can be observed in certain Churches, e.g. in celebrating the Divine Liturgy facing the people, in depriving the faithful of the communion under both species, (characteristics of *all* Oriental Churches *without exception*), in clerical dress, etc.

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3. *CIC* (1917) c. 1: (1983) "Canones huius Codicis unam Ecclesiam *latinam* respiciunt."

3. *These individual Churches, of the East as well as of the West, though they differ in part among themselves in rite, as is the current term, namely in liturgy, ecclesiastical discipline, and spiritual heritage, are nevertheless, each as much as the others entrusted to the pastoral government of the Roman Pontiff, who divinely succeeded St. Peter in the primacy over the universal Church. They are consequently of equal dignity, so that none of them is superior to the others as regards rite, and they enjoy the same rights and are under the same obligations, also in regard to preaching the Gospel to the whole world (cf. Mk 16, 15), under the direction of the Roman Pontiff.*

This article deals, in the first instance, with the relationship of the 'individual' Churches "of the East as well as of the West" to the Roman Pontiff. It is stressed that it is in his capacity of successor of St. Peter "in the primacy over the universal Church" that they are entrusted to his care. Since there is but one 'individual' Church of the West, this article makes it evident that it is equal to the Oriental Churches, having no superior rights at all!

All the 'individual' Churches are entitled to do missionary work, because they are bound to evangelize the world, according to the Lord's own command. None of them may be dispensed of it or dispense itself of it. There is also no territorial restriction for the work of evangelization "under the direction of the Roman Pontiff".

Since the Churches are equal, they have the same rights and obligations, also in regard to the work of evangelization. The high authority of the Roman Pontiff is necessary, in practice, to coordinate the missionary activities of all the Churches.

In the past and, sometimes, also at present the understanding of this common task has been far from common to all, even in the Roman curia. Certain groups, and the hierarchies of some countries, have been – wrongly – of the opinion that the Oriental Churches are to have just the right to survive by taking care of their own faithful in their native territory, but that all evangelizing work among non-Christians falls exclusively within the competence of the Roman Catholic Church.

Vatican II has corrected this wrong view stressing the right and the *obligation* of the Oriental Churches to preach the

Gospel to the *whole world*: to the believers of other religions as well as to those who are considered the neo-pagans in countries in which Atheism has become a kind of 'pseudo-religion' and elsewhere, i. e. to all those who do not yet know Jesus Christ, their Saviour.

It may be that some of the Oriental Churches, because of the scarcity of their personnel or other circumstances, are not in a position to undertake effective missionary work here and now, but those Oriental Churches which can and wish to spread the message of Christ, should not be hindered in any way. The Lord said to his disciples: "Go and preach..." and not "Wait and keep silent until all minds agree that you do something!"

As late as in 1959, the Apostolic Delegate in Palestine remitted to the then Archbishop of Haifa, Nazareth and All Galilee, Kyr Maximos Hakim (the Present Melkite Patriarch), a decree issued by the Holy Office on November 18 of the same year saying that, in the Holy Land, "The Greek-Melkite Bishop has to take care of the subjects belonging to this rite, while the apostolate of the Latins for the Latins as well as for the Hebrews comes under the (Latin) Patriarchate of Jerusalem"<sup>4</sup>.

The Melkite Patriarchate headed then by Patriarch Maximos IV, reacted by editing a brochure in 1961 in which it gave an answer to this discriminatory measure by which a bishop, within his own eparchy, had been prevented from effective work of evangelization among the inhabitants of the region.

"We are persuaded that this discriminatory measure was elicited from the Holy Office being in good faith, by the intrigues of certain latinizing circles of Israel, and that the Holy Father, once duly informed of this machination, will reestablish truth and right. Upon the reactions of our Patriarchate, the Holy Office itself has already given some attenuations announcing, for the near future, a return to an appropriate solution of this problem by withdrawing this measure."<sup>5</sup>

4. Communication of the Apostolic Delegate in Palestine: Letter of December 12, 1959 (No 30000/59).

5. *Catholicisme et latinisme*, Harissa 1961, 12ff., quoted from N Edelby and I. Dick, *Les Eglises Orientales Catholiques: Decret <<Orientalium Ecclesiarum>>* (=Unam Sanctam, 76), Paris 1970, 171.

And in a footnote, it is said there:

“A simply analogous measure is touching the Malabar Church. Very prosperous, very missionary, it is nevertheless not enabled to do missionary work, outside the limitations of its dioceses, in India, its own fatherland, unless it makes its priests go over to the Latin rite or under the Latin jurisdiction. Something similar exists also in Ethiopia where the South of the country seems to be reserved to the Latins. Would the equality of rites in the Church be only a simple word? But the measure touching our Melkite Church in Israel is unheard of hardly believable, as a diocesan bishop is concerned in his own diocese where the Oriental Church had been constituted at a time, before the Christian name was known in the West.”

There cannot be any doubt that the Council Fathers in preparing the above quoted text of our decree, wished to accept the reclamations of the Melkite Patriarchate and to give guidelines to remedy the anomalous situation in India. Of course, in the course, of the past twenty years, the Malabar Church was given some missionary regions, and today there are eight eparchies mentioned in the Pontifical ‘Annuario’. The Latin hierarchy has resigned from exercising its jurisdiction over territories where the Latin Church had rather no success in the work of evangelization, but they did even this not wholeheartedly. The new ‘Oriental’ eparchies were immediately attached to Latin metropolitan provinces. Some of these new eparchies have scarcely an Oriental character. The missionary personnel, without any experience of Oriental ecclesial life, often, imitate the Latins in all respect, celebrating even the Roman Mass for those entrusted to them.

But even this, not at all satisfactory, state of things has not found favour with the Latin hierarchy and the Congregation for the Evangelization of Peoples whose secretary was, until recently, an Indian of the Latin Rite.

So far we cannot say that they are prepared to admit that the Malabar Church has, on the missionary level, the same rights which the Roman Catholic (Latin) Church claims for itself. It is abnormal that Chaldeo-Malabar seminarians, religious and priests, because of their missionary vocation, have to make the sacrifice

of their own rite and ecclesial affiliation. It remains anomalous and is, for many Catholics, also Roman Catholics in the whole world, a scandal that some 20 born Orientals serve in the Latin hierarchy in India as bishops.<sup>6</sup> Is the Roman Catholic Church in India able to survive only in this manner? Has it to draw Orientals over to its side and to make them, through a kind of brainwashing, forget their roots in order to prevent an extension of the Oriental presence? Would it not be more logical to acknowledge the apostolic Church of India, the *Church of the Thomas Christians*, as the first-born of the soil and to render it what is its due?

The visit of Pope John Paul II in early 1986<sup>7</sup> had given rise to many hopes. These hopes have remained, at least for the time being, vain. The Roman Pontiff did not solve the major existing problems the Indian Orientals have to face. So the whole issue is pending. Will a commission composed of Orientals but predominantly of Latins and as well as of members of Roman dicasteries bring a true solution which is, at the same time, just? Or will all the reunions and conferences of such a commission only delay it? In any case, even a Pontifical Commission charged with such a work, has to be obedient to the high authority of an ecumenical council!

“May the Oriental Churches, in spite of their poverty, take up, thanks to the Council, their place in the ranks of the pioneers of the Gospel!”<sup>8</sup>

4. (a) *Means should be taken therefore in every part of the world for the protection and advancement of all the particular Churches and, to this end, parishes and a proper hierarchy should be established where the spiritual good of the faithful demands it.*

(b) *The hierarchs of the different particular Churches with jurisdiction in one and the same territory should take common*

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6. In 1969, an Eastern Catholic priest was appointed Latin bishop of Skopje-Prizren in Macedonia (Yugoslavia) who is also the Apostolic visitor of the Macedonian Catholic (Byzantine) faithful in Macedonia who belong to the eparchy of Krizevci.

7. See J. Madey, “Rencontre du Pape Jean Paul II avec les Eglises Orientales de l’Inde”: *Proche-Orient chretien* XXXVI (1986)...

8. Edelby-Dick, *op. cit.* 172.

*counsel in periodic meetings and strive to promote unity of action and with common endeavour to sustain common tasks, so as better to further the good of religion and to safeguard more effectively the ordered way of life of the clergy.*<sup>3</sup>

*(c) All clerics and those aspiring to sacred orders should be instructed in the rites and especially in the practical norms that must be applied in inter-ritual questions. The laity, too, should be taught about rites and their norms as part of its catechetical formation.*

*(d) Finally, each and every Catholic, as well as the baptized person of any non-Catholic Church or community who enters into the fullness of the Catholic communion must retain his own rite wherever he is, must cherish it, and observe it to the best of his ability.*<sup>4</sup>

*(e) This is without prejudice, in special cases of persons, communities or areas, to the right of recourse to the Apostolic See, which as the supreme arbiter in interchurch relations, will, acting itself or through other authorities, meet the needs of this occasion in an ecumenical spirit by issuing suitable norms, decrees and rescripts.*

We shall deal with this article in five sections: (a) protection and advancement of the individual Churches, (b) inter-church cooperation in the same territory, (c) the need for proper instruction, (d) preservation of the proper rite, (d) recourse to the Holy See of Rome.

Like the preceding articles, art. 4 also concerns *all* the individual Churches without exception. It has its relevance, therefore, for the Roman Catholic Church, too. The latter does not at all enjoy a superior or particular position within the universal Church, as was already emphasized above.

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3. Pius XII *Motu proprio Cleri sanctitati* (June 2, 1957), can. 4.

4. Pius XII, *Motu proprio Cleri sanctitati* (June 2, 1957), can. 8: "without the permission of the Apostolic See", following the practice of the preceding centuries; likewise, in respect to baptized non-Catholics, can. 11: "they may embrace the rite they prefer" (*ritum quem maluerint amplecti possunt*); in the present text, the observance of the rite is prescribed in a positive way for all and throughout the world.

(a) We are grateful to note that the council demands in a very clear way, that all the individual Churches should not only be preserved in their native territories, but should also be protected and develop themselves *in every part of the world*. This means that the individual Churches, being a communion of Churches, are at home everywhere. It would, therefore, be a contradiction in itself, if the universal Church, or one of its individual Churches of the East or of the West, tried to suppress other individual Churches for its own benefit. Many examples of the past and also of the present prove that such a wrong concept exists. How great have been and are the obstacles raised by Roman Catholic hierarchies in the two Americas, Italy, Poland, India, etc. in regard to the Orientals! <sup>9</sup>

For the preservation and development of any individual Church, it is quite essential that parishes and *a hierarchy of its own* be established. The purpose of such a measure is not simply a pious feeling, but the *good of souls*. Nobody is therefore entitled to prevent an individual Church from organic growth among its own faithful, entertaining other preferences or aiming at other ends.

Vatican II invites the individual Churches to live their own lives everywhere. In order to realize this, they must be enabled to *remain what they are* in all respects: in theology, spirituality, liturgy, discipline, etc. Nowhere should they lose their identity! This relates especially to those Churches that have many or even the majority of their faithful in the emigration, e. g. the Melkite, Maronite, Ukrainian, Chaldean, Chaldeo-Malabar Churches. By its statement, Vatican II officially acknowledges that mere *territorial jurisdiction is outdated*. As the Church is centered in the Eucharist which is always a personal and local event, *all jurisdiction must be always, at the same time, personal and territorial*.

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9. From the rich literature on this issue, cf. e.g. G. Chediath, Unity versus uniformity: An Ecumenical Question: *Christian Orient* 2 (1931) 141-164; J. Madey, *Kirche zwischen Ost und West: Beitrage zur Geschichte der Ukrainischen und Weissruthenischen Kirche* (= Ukrainische Freie Universitat, Reihe: Monographien, Band 15), Munich 1969; J. Madey, Oriental Catholic Churches in North America: Development and Present State: *Christian Orient* 7 (1986) 156-180 (German version: *Der christliche Osten* 41, 1986, 87-108).



This is not at all an innovation derived from what is called 'Eucharistic Ecclesiology', brilliantly formulated by Fr. N. Afanassiëff, which had played a certain role at Vatican II. It is in accord with the mind of the undivided Church of the first millenium. The Melkite Patriarchate of Antioch had followed its faithful into the emigration establishing katholikosates for them.<sup>10</sup>

The *Roman Catholic* Church's practice was never strictly bound to the principle of mere territorial jurisdiction. From the time of the Crusades, Roman Catholic (Latin) bishoprics were established in all places where a handful of Roman Catholics were to be rendered spiritual and pastoral service and there is today not even a remote corner of the earth without the jurisdiction of a Roman Catholic bishop. Since all the individual Churches enjoy equal rights, they must be free to work everywhere and to minister to their own faithful. A repartition of individual Churches must be avoided. Their oneness must be recognized, and therefore each one should have a unique hierarchical head, be he a patriarch a katholikos or an archbishop major or metropolitan.

It is simply anomalous to see in the Roman *Synod of Bishops* the Chaldeo-Malabar Church represented by two metropolitans of equal rank of whom none is 'father and head' (*pater et caput*) of his Church and its hierarchy. This Church is really an *acephalous* entity, and it would be even more correct to speak now a days of *three Chaldeo-Malabar Churches in India*, because next to the two metropolias independent from one another, there are also the mission eparchies which are *submitted* to the Roman Catholic metropolitan provinces of Agra, Bombay, Nagpur, Bhopal respectively. — The same impression makes the Ukrainian Church whose 'Father and Head' is the Archbishop Major of Lwiw (Lwów) who is residing, for the time being, in exile in Rome. Nevertheless, in the Synod of Bishops also the metropolitans of Philadelphia (U. S. A.) and Winnipeg (Canada) have their seats as 'metropolitans outside a patriarchate'.

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10. Cf. J. Nasrallah, *L'Eglise melchite en Iraq, en Perse et dans l'Asie Centrale: Proche-Orient chretien* 25 (1975) 135-173; 26 (1976) 319-353.

We have been witnesses, since the time of Vatican II and even before, of the unhappy reactions of the Roman Catholic hierarchy in India, whenever the native Oriental Churches attempted to press their legitimate rights. Especially in the last few years, this hierarchy has sent one memorandum after the other to Rome<sup>11</sup> in order to maintain its first, though illegitimate position.

We find a similar situation in Poland. For the last 40 years, Ukrainian and Armenian Catholics are prevented from having hierarchs of their own in Poland. The present Primate has named, at least, Vicars General for the Orientals. It remains, however, scandalous, that a Ukrainian archbishop who is residing in Rome, has to travel to Poland to confer the sacred orders to Oriental seminarians and that Oriental priests are being appointed for Roman Catholic parishes, thus being hindered from serving the brethren and sisters of their own individual Church<sup>12</sup>.

To put it briefly, we are still far from a situation where the principle enunciated in the first phrase of art. 4 is translated into a living and lived reality in *every* part of the world.

So far there has been a big disparity between the Roman Catholic Church and the Oriental Catholic Churches. When a Roman Catholic 'jurisdictional circumscription' is established somewhere, this goes without any difficulty, and the Oriental Churches which may be there from time immemorial are normally not even consulted.

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11. See in this context *A Response to the Report entitled "Syro-Malabar Catholics outside India (1980)"*, October 1983; *Latin-Oriental Relations and the Mission of the Church in India: A Document submitted by the Latin Bishops of India to His Holiness Pope John Paul II*, Bhubaneswar n. d.; P. A. Joseph, *Further Documentation on Latin-Oriental Relations and the Mission of the Church in India*, 1985; etc. These documents were published "For private circulation" as internal documents of the CBCI thus making evident that this body is a Roman Catholic institution!

12. Cf. *Der christliche Osten* 40 (1985) 172. – A memorandum of Ukrainian Catholics in Poland to the Primate, Cardinal Jozef Glemp, circulated also in the West; they claimed to have at least one bishop in the country itself where the see of Przemyśl has remained vacant for the last forty years!

As the Archbishop of the Syro-Malankara Church said during the Synod of Bishops of 1985:

“... I am archbishop in Trivandrum. Five years after our See was established, a new Latin Bishop was appointed in the same city. No questions were asked, no objection was made .. the same happened in Ernakulam and Kottayam. The new Bishops were of the Latin Rite.

... What is really needed is a careful reading of Vatican Documents, also by Bishops. Why such objections only in India? Before the missionaries came from Europe, we Orientals lived in India in peace and perfect freedom for a millenium and a half. We are part and parcel of India .. for the early missionaries, in spite of all their goodwill, all that was not Latin was heresy. They made a bonfire of our liturgical texts. Two million Thomas Christians today live separated from the Catholic Church, primarily due to the unwise policies of these missionaries.”<sup>13</sup>

Even today the establishment of an Oriental hierarchy amidst the Roman Catholic hierarchy is a difficult proposition. The Roman Catholic Church is not conscious of being *sister Church* to the Oriental Churches and should therefore not behave as if it were their *mother* dealing with minor daughters who have not yet reached the age of maturity. On the contrary, some of them are older than the Church of Rome which is the mother Church of all the local Roman Catholic Churches. Rightly, therefore M. M. Wojnar says: “This anomaly must be removed in the Catholic Church.”<sup>14</sup>

All the Oriental Catholic Churches, with the only exception of the Maronite Church, have non-Catholic counterparts, and they see for themselves how these non-Catholic Churches are able to develop and grow wherever they wish, and nobody thinks of raising any objections. In fact the Roman dicasteries accept these jurisdictions as quite normal and even encourage the Roman Catholic hierarchies to render them a helping hand.<sup>15</sup> Why then

13. The original English text is published in *Le Lien: Revue du Patriarcat Grec-Melkite-Catholique* 51/1 (1936) 34.

14. Decree on the Oriental Catholic Churches: *The Jurist* 25/2 (1965) 185.

15. Cf. Secretariat for Christian Unity, *Ecumenical Directory: Part I*, Vatican City 1967.

are the Oriental Catholics in certain regions, discriminated against and placed under some undefined "Ordinary for the faithful of the Oriental rite" who is a Roman Catholic prelate (eventually the bishop of a country's capital) or simply under the respective local Roman Catholic ordinary?

(b) This paragraph deals with inter-church relations in those regions in which several Oriental Churches are present and hierarchically organized. The ordinaries of these Churches are exhorted to mutual cooperation, and there are certainly many areas where this can be done. At first, the hierarchs of the different individual Churches "should take common counsel in periodic meetings." Already in the *Motu proprio cleri sanctiati*, can. 4, this mutual cooperation is envisaged. Consequently, the Oriental hierarchs living amidst a hierarchy of the Roman Catholic Church, have a place in the regional or national bishops' conferences without being deprived of their membership in the hierarchical synods of their own individual Churches (*Ecclesiae sui iuris*).

The taking of common counsel is to be understood less in a juridical than in a pastoral sense. The meetings of the hierarchs are to "strive to promote unity of action" and "sustain common tasks" in order to promote "the good of religion and to safeguard more effectively the *ordered* way of life of the clergy."

There are plenty of issues which can find a joint solution or can be agreed upon. In the field of pastoral solicitude, the hierarchs of a certain region can give the priests of any individual Church the power to hear confessions or to engage themselves in catechetical instruction anywhere, i. e. in all the jurisdictions concerned. Other fields of cooperation may be the mass media, the charitable and educational activities, pastoral conferences, social insurance for the clergy, response to national policies and problems etc.

(c) The issue dealt with here is the appropriate instruction of the seminarians as well as of the laity on the individual Churches that form the universal Church. This is of importance not only where a plurality of Churches actually exist. The past and present migration has brought members and communities of individual Churches to Europe, the two Americas and Australia on a scale that could not be anticipated a few decades ago. Who,

for instance, had dreamt of Catholic Copts or Ethiopians in the United States, Canada, South America, Australia, Italy, France and Germany?

Since the co-existence of different individual Churches is at the local or parish level, the present and future pastors should receive a thorough instruction, about the canonical norms to be applied. The ignorance in matters Oriental is still enormous. For instance, how many marriages of Oriental couples may be invalid because Roman Catholic pastors ignored the legal norms treating the couples as if they belonged to their own parish? How many Oriental Catholic children were given the sacrament of chrismation in their new surroundings, along with their classmates, although they had received the same sacrament already after their baptism?

It is necessary that, in every school of theology, a special course be given to the students on Oriental matters enabling them to appreciate the Eastern Churches in and outside the communion with the Roman Apostolic See. Then the clergy would be able to transmit their knowledge to the laity through sermons and catechetical instruction.

As early as in 1929, The Congregation for Universities and Seminaries had prescribed that in theological studies special attention should be given to questions relating to the Oriental Churches and peoples. Pope Pius XI had mentioned this in an apostolic letter already in 1928. In 1935, the Congregation for the Seminaries prescribed, in a letter addressed to all Roman Catholic bishops, that every year a special Day of Oriental Christianity (*Dies orientalis*) be held in every seminary.<sup>16</sup> In practice, almost nothing has been done to ameliorate the situation, even two decades after Vatican II!

In Germany, there are but two chairs for "Oriental Church History and Ecumenical Theology" at the State Universities of Würzburg and Münster, but none at the ecclesiastical theological faculties nor in the major seminaries. And even the so-called "Oriental Days" mentioned above, are fallen more or less into oblivion in the Post-Vatican II period.

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16. Cf. V. J. Pospishil, *Orientalium Ecclesiarum: Canonical-Pastoral Commentary*, Bronx (New York) 1965, 15.

It is not a 'joke of history' or rather a tragic irony that, at a time when communication between the continents has rather become a matter of course, an academic institution like John XXIII Center for Eastern Christian Studies of the Jesuit Fordham University, New York, which had started so hopefully was closed down and its review *Diakonia* ceased publication (1983)!

The Oriental Seminaries and Schools of Theology, of which Kaslik and Kottayam hold the rank of Pontifical institutions, have the special task of purveying instruction on the different individual Churches. Among the Oriental Catholics, the knowledge of the Roman Catholic (Latin) Church and its customs is, in general, far greater than the knowledge of the other Oriental Churches, even if these have the same liturgy and have many other things in common. We are convinced that, in this respect, much is still to be done.

This instruction assumes importance in the context of common action of the Oriental Catholic Churches and their hierarchies. The first presupposition to effective action is that each one knows the other's Church, its history, set-up, discipline etc. One of the principal defects one can observe with the Eastern Catholic Churches, is that they lead rather an introvert life, as if each one were alone, 'an exception from the rule' in the face of the Roman Catholic Church. Oriental Catholics know practically very little or next to nothing of the Oriental sister Churches living often in the same places. It is, therefore, a first step in the right direction that the Oriental hierarchs in the United States are having their regular meetings to find a common standpoint vis-à-vis the Roman Catholic hierarchy representing the vast majority of the Catholics. The Oriental hierarchs of other predominantly Roman Catholic countries or regions should also be encouraged to act in like manner.

According to the Roman Catholic Code of Canon Law (CIC), can. 450 § 1, Oriental Catholic bishops can be invited to the meetings of Roman Catholic Bishops' Conferences, "however in such a way that they have but a consultative vote, unless the statutes of the bishops' conference decide something else". Being members of their own synods (at least "aggregated members"), they certainly will abstain from voting in matters pertaining

exclusively to the Roman Catholic Church or from accepting offices within the Roman Catholic bishops' conference.

d) Vatican II emphasizes here its strong wish that all baptized persons, Catholics as well as non-Catholics, retain their rite everywhere. The decree itself has not substituted here contrary statements of *Cleri sanctitati*, but has expressed the retaining of one's proper rite in the form of a wish. The Fathers wished to lay down here some general principles for the future codification of the canon law both of the western church and of the eastern churches.

In fact, we find in the draft of the schema "On the hierarchical constitution of the oriental churches" pertinent sayings in this regard in the first chapter of the first title (cc. 10-17).

From the formulation itself, it becomes evident that non-Catholics, in virtue of their baptism, are not completely separated from the Catholic Church; they belong to her somehow in an imperfect manner. Baptism is always conferred by a determined church *sui iuris* ascribing the baptized person to its fold. The baptized person, on the other hand, acquires by his or her baptism membership in a determined church *sui iuris*. By joining the visible Catholic Church, an Oriental non-Catholic does not come from some no man's land, but he is perfecting his communion with the Catholic Church. He does not at all lose his "rite" acquired at baptism. Therefore it is simply logical that he remains in his church *sui iuris* when his communion with the Catholic Church becomes perfect. This is why it is stated in the draft quoted above:

"Baptized of any non-Catholic Church or community are ascribed to the Church of their own rite, when they come to the fulness of the catholic communion *or, according to the vote of some consultors*, may be validly ascribed only to the Church of their own rite" (c. 14).<sup>17</sup>

Formerly, the Oriental non-Catholics had practically no "rite" and could choose any "rite" they wished when they joined the Catholic Church. They were equal, in this respect, with unbaptized persons who *really* have no "rite" and therefore may seek

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17. *Nuntia* 19, Vatican City 1984, 22.

membership in any church *sui iuris* at baptism, irrespective of the "rite" of the priest administering this sacrament.<sup>18</sup>

Vatican II acknowledging the ecclesial character of the non-Catholic Oriental Churches cannot deny the "rite" of an oriental non-Catholic. Orientals establishing full or perfect communion with the Catholic Church ought, therefore, remain faithful to their "rite" or church *sui iuris*.

In the first draft of the schema on worship and sacraments, prepared by the Pontifical Commission for the revision of oriental canon law, it was said that, for strengthening the bond of marriage and keeping up peace within the family, a child whose mother was Catholic and the father non-Catholic Oriental, could be baptized and ascribed to that Catholic church *sui iuris* which corresponds, in "rite", to the church of the father. If, for instance, the husband belonged to the Armenian Apostolic Church, the child could be baptized in the Armenian Catholic Church. This proposal makes evident that the Oriental father's "rite" is identical with the "rite" of the "parallel" Catholic communion.<sup>19</sup>

e) A recourse to the Holy Roman See, i. e. to the Roman Pontiff and his dicasteries, is possible but only in *exceptional cases*. This point should be stressed. What is exceptional may not become normal! The decree speaks of the Roman Pontiff as "the supreme arbiter in inter-church relations",

"... a phrase which implies that the Pope is to judge even-handedly between the claims of the Eastern and Western Churches where these might be in conflict or competition. But what this view of Papacy does not take into account, and what is obvious to all Eastern Christians, is that the Pope does not exist on some neutral ground above or outside the Eastern/Western dimension of the Church's lived reality, but that he belongs within a particular Church, the Latin Church of the West. He is, in Eastern Christian terms, the Patriarch of Western Church.

18. Cf. J. Madey, *Oriental Catholics in Roman Catholic Dioceses: "Interritual" norms according to the new Codex Iuris Canonici (to be published)*.

19. Cf. *Nuntia 15*, Vatican City 1982, 17 (See also ann. 9).



*The hard theological question which the Decree brings to light but does not resolve comes down to this: how is the Petrine charism of the Papacy to be exercised for the good of the Universal Church as a whole (East and West, as all Catholics believe it must be), given the fact that the one who exercises this charism belongs of necessity within the ecclesial traditions of a particular Church, that of the Roman rite? As Western Catholics we are not yet sufficiently free from our ingrained habit of simply identifying ourselves with the 'universal' Church to be able to answer this question in a way that preserves the equal dignity and responsibility of the Eastern Catholic Churches in fact as well as in word."*<sup>20</sup>

This difficulty must not be underestimated, and the Roman authorities assisting the Pope should be aware of it.

### CHAPTER III

#### THE PRESERVATION OF THE SPIRITUAL HERITAGE OF THE ORIENTAL CHURCHES

5. (a) *History, tradition and so many ecclesiastical institutions bear outstanding witness how much the Eastern Churches have merited for the universal Church.*<sup>5</sup>

(b) *The Sacred Council, therefore, not only accords to this ecclesiastical and spiritual heritage the high regard which is its due and rightful praise, but also unhesitatingly looks on it as the heritage of the universal Church of Christ.*

(c) *For this reason it solemnly declares that the Churches of the East as much as those of the West possess the right and*

5. Cf. Leo XIII, Litt. Ap. *Orientalium dignitas*, November 30, 1894; Ep. Ap. *Praeclara gratulationis*, June 20, 1984, and the documents referred to in note 2.

20. R. Barringer, "Orientalium Ecclesiarum" deserves more attention: *Byzantine Catholic World* (Pittsburgh, PA 15214, USA, December 29, 1985) 3. – The Roman Catholic author, Rev. R. Barringer CSB, is a member of the faculty of Theology, University of St. Michael's College, Toronto, Canada.

*are bound by duty to rule themselves each in accordance with its own discipline, inas much as it commends itself to respect by its antiquity, and is to be regarded more appropriate to the manner of life of their faithful and more suited to the promotion of the good of souls.*

The council Fathers stress here the merits of the eastern Churches, not only those of eastern faithful. They expressly point 1. to history, 2. the traditions and 3. the ecclesiastical institutions. These merits pertain to the universal church which means that they are not only relevant for the eastern Churches, but also to the western church.

Indeed, the church founded by the Redeemer himself has its roots and origins in the East. *Ex Oriente lux! From the East the light!* History of the early church is basically the history of the oriental churches. The apostles, their disciples and the later messengers of the gospel were Orientals, and it is to them that we owe the doctrinal development, the organization of the churches, last not least the victorious struggle against heresies which threatened the very existence of the church, its faith and mission. Traditions and many ecclesiastical institutions, liturgical rites etc. equally took shape in the East, and the western church which is an offspring of the evangelistic work of the Orientals, has largely profited from what the oriental churches could offer.

1. Consequently, a thorough and unbiased study of the history of the eastern churches imposes itself. It must comprise all the points enumerated above and show their vitality as expressed in local and general councils, in art, church construction and furniture, etc. Then also the history of the separations will have to be evaluated more objectively. "The responsibilities are on both the sides", eastern and western, as Pope John XXIII stated. The historian will certainly evaluate properly the role of the eastern churches in the evangelization of the nations, Not only Byzantium, but also the Syriac churches had brought the faith to distant peoples already before the beginning of the missionary enterprise of the western or Roman Catholic church. The eastern churches have been also the first to share Christ's sufferings of Calvary in many persecutions, and many of them have to suffer up to this day. The study of history will meet

with a lot of difficulties, as many valuable sources which would be of interest have been destroyed either by the climate or by the vicissitudes to which these churches have found themselves exposed: Islamic conquest, crusades, colonialism, persecutions of the 19th and 20th centuries, civil wars (Lebanon, for example), etc. Hecatombs of blood have been shed by the martyrs of the eastern churches for Christ and his Church, too. In many countries today they are bearing witness at great risk and their sufferings ought to be taken into greater consideration than at present.

2. The traditions of the eastern churches have grown and developed *organically* throughout the centuries. The Greek and Syriac Fathers often give a timeless witness of their particular Christ-experience the relevance of which is increasingly recognised today. In a recent allocution (1986), Cardinal Joseph Ratzinger, Prefect of the Roman Congregation for the Doctrine of the Faith, emphasized the importance of the writings of the church fathers urging the theologians, particularly those teaching in academic institutions, to consult more their sayings and their sound doctrine in order to avoid aberrations. Living these traditions so close to the apostolic heritage, the eastern churches which were rooted in their socio-cultural milieu, have converted their ways of life after accepting the Gospel. In the face of their environment, they converted their ways of life essentially. Being children of the soil, however, they have never felt the temptation of an unsound "inculturation" which blindly imitates pre-Christian or non-Christian practices. Neither Islam nor Hinduism or Buddhism was able to make them depart from their Christian beliefs and convictions.<sup>1</sup>

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1. How far some present champions of "inculturation" go, is illustrated by the following event which occurred at Vidyajyoti, the Papal (!) Faculty of Theology at Delhi under the auspices of the Society of Jesus. Instead of celebrating the Feast of the Birth of the Blessed Virgin Mary, Mother of God, some Jesuits publicly celebrated an "eucharistic" liturgy to "commemorate" the *birth of god Krishna* comparing Krishna's flute with Christ's salvific cross, instrument of our redemption. Who is for them the very Saviour? – remarkable proof of a certain inferiority complex on the part of Roman Catholic religious who, while having no appreciation of the oriental christian heritage of their country, are seeking refuge in borrowing *myths* from other religions. We find the same tendency in a recent book of B. Griffiths, *The Marriage of East*

3) The ecclesiastical institutions of the East also bear witness of an ancient heritage rendering high service to the universal Church. The development of the metropolitan and patriarchal institutions, of church administration, the involvement of the laity in church life (from parish to patriarchate), in a way of sharing the responsibilities with the clergy, are worthy of special mention in this context, besides the liturgical institutions. Many reforms envisaged by Vatican II for the universal church are based on the exemplary practice of the eastern churches, e. g. the use of the living languages in liturgical services, communion under both species, concelebration, minister of the sacrament of chrismation, episcopal collegiality, etc.

Within the Catholic Church, these merits are due to the Oriental Catholic Churches which, in spite of many vicissitudes caused particularly by the post-Trent Roman Catholic Church with its tendencies of centralization and uniformization, had kept their ancient patrimony as much as possible.

b) This is why the council affirms that it accords to this heritage the high regard, esteem and praise which are due; it does not at all consider it as a separate patrimony particular to this or that eastern church or region, but as the heritage of the universal church. Gratitude is, therefore, also due to those Oriental Churches which, during the course of history, for different reasons have lived outside the ecclesiastical communion with the Church of Rome. The Decree on Ecumenism explicitly states this in regard to the Eastern Churches and their relationship to the Western Church:

“This council gladly reminds everyone of one highly significant fact among others: in the East there flourish many particular local churches; among them the patriarchal churches hold first place, and of them many glory in taking their origin from the apostles themselves. Hence, of primary concern and care among the Orientals has been, and still is, the preservation in a communion of Faith and charity of those family ties which ought to exist between local

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*and West*, London 1982 (German edition Salzburg 1983) in which Christian revelation is identified with “the rebirth of myth” and the author heads two chapters “The Myth: Christ” and “The Myth: Church.”

churches, as between sisters. From their very origins the churches of the East have had a treasury from which the church of the West has drawn largely for its liturgy, spiritual tradition and jurisprudence. Nor must we underestimate the fact that the basic dogmas of the Christian faith concerning the Trinity and the Word of God made flesh from the Virgin Mary were defined in ecumenical councils held in the East. To preserve this faith, these churches have suffered, and still suffer much.

However, the heritage handed down by the apostles was received differently and in different forms, so that from the very beginnings of the Church its development varied from region to region and also because of differing mentalities and ways of life. These reasons, plus external causes, as well as the lack of charity and mutual understanding, left the way open for divisions.

For this reason the council urges all, but especially, those who commit themselves to the work for the restoration of the full communion that is desired between the eastern churches and the Catholic Church, to give due consideration to this special feature of the origin and growth of the churches of the East, and to the character of the relations which obtained between them and the Roman See before the separation, and to form for themselves a correct evaluation of these facts. The careful observation of this will greatly contribute to the dialogue in view.

Everyone knows with what love the eastern christians celebrate the sacred liturgy, especially the eucharistic mystery, source of the Church's life and pledge of future glory. In this mystery, the faithful, united with their bishops, have access to God the Father through the Son, the Word made flesh who suffered and was glorified, in the outpouring of the Holy Spirit. And so, made 'sharers of the divine nature' (2 Pet 1, 4), they enter into communion with the most holy Trinity. Hence, through the celebration of the Eucharist of the Lord in each of these churches, the Church of God is built up and grows in stature (cf. St. John Chrysostom, *In Ioannem Homelia XLVI*, PG 59, 260-262),

and through concelebration, their communion with one another is made manifest.

In this liturgical worship, the eastern christians pay high tribute, in beautiful hymns of praise, to Mary ever Virgin, whom the ecumenical synod of Ephesus solemnly proclaimed to be the holy Mother of God in order that Christ might be truly and properly acknowledged as Son of God and Son of Man, according to the scriptures. They also give homage to the saints, among them the Fathers of the universal Church.

These churches, although separated from us, yet possess true sacraments, above all – by apostolic succession – the priesthood and the Eucharist, whereby they are still joined to us in closest intimacy. Therefore some worship in common (*communicatio in sacris*), given suitable circumstances and the approval of Church authority is not merely possible, but is encouraged.

Moreover, in the East are to be found the riches of those spiritual tradition which are given expression in monastic life especially. From the glorious times of the holy Fathers, that monastic spirituality flourished in the East which later flowed over into the Western world, and there provided a source from which Latin monastic life took its rise and has often drawn fresh vigour ever since. Therefore it is earnestly commended that Catholics avail themselves more often of the spiritual riches of the eastern Fathers which lift up the whole man to the contemplation of divine mysteries.

Everyone should realize that it is of supreme importance to understand, venerate, preserve and foster the rich liturgical and spiritual heritage of the eastern churches in order faithfully to preserve the fulness of christian tradition, and to bring about reconciliation between eastern and western christians.

From the earliest times the churches of the East followed their own disciplines, sanctioned by the holy Fathers, by synods, and even by ecumenical councils. Far from being an obstacle to the Church's unity, such diversity of

customs and observances only adds to her beauty and contributes greatly to carrying out her mission, as has already been stated. To remove all shadow of doubt, then, this holy synod solemnly declares that the churches of the East, while keeping in mind the necessary unity of the whole Church, have the power to govern themselves according to their own disciplines, since these are better suited to the character of their faithful and better adapted to foster the good of souls. The perfect observance of this traditional principle – which indeed has not always been observed – is a prerequisite for any restoration of union.

What has already been said about legitimate variety we are pleased to apply to differences in theological expressions of doctrine. In the study of revealed truth East and West have used different methods and approaches in understanding and confessing divine things. It is hardly surprising, then, if sometimes one tradition has come nearer to a full appreciation of some aspects of a mystery of revelation than the other, or has expressed them better. In such case, these various theological formulations are often to be considered complementary rather than conflicting. With regard to the authentic theological traditions of the Orientals, we must recognize that they are admirably rooted in Holy Scripture, are fostered and given expression in liturgical life, are nourished by the living tradition of the apostles and by the work of the Fathers and spiritual writers of the East; they are directed toward a right ordering of life, indeed, toward a full contemplation of Christian truth.

This sacred council thanks God that many eastern children of the Catholic Church preserve this heritage and wish to express it more faithfully and completely in their lives, and are already living in full communion with their brethren who follow the tradition of the West. But it declares that this entire heritage of spirituality and liturgy, of discipline and theology, in the various traditions, belongs to the full catholic and apostolic character of the Church.<sup>2</sup>

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2. Vatican II, Decree on Ecumenism *Unitatis Redintegratio*, nos. 14–17.

We have quoted the Decree on Ecumenism in-extenso, because in an admirable way it complements what we have just said above. The attentive reader will notice which passages should be emphasized.

c) After these preliminary remarks, the Fathers of Vatican II in a solemn tone declare that

1. the churches of the East and of the West are of the same dignity and enjoy the same rights in the universal Church;
2. it is not only their right, but also their express *duty to rule themselves* each in accordance with its own discipline;
3. this is to be regarded more appropriate to the manner of life of their faithful and more suited to the promotion of *the good of souls*.

We are immediately reminded of art. 16 of the Decree on Ecumenism *Unitatis Redintegratio* quoted above.

In a memorandum<sup>3</sup> of the Roman Catholic hierarchy of India (1985) addressed to the Roman Pontiff, it was asserted that our decree could not be accepted by them, as it was addressed "to the (geographical) West only." This is, evidently, nonsense and not at all in agreement with the council's intention. Their argument is simply based on wishful thinking in order to prevent the oriental churches living in India since the apostolic times from taking up responsibility of their own faithful living in other parts, of India outside Kerala. Claiming India to be "Latin territory", they wish to enjoy exclusive rights and jurisdiction! Will they also declare the Decree on Ecumenism as "addressed to the West only"? This is poor eclecticism and nothing else.

By this double statement found in both the decrees referred to the council Fathers unequivocally and definitely condemn the

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3. This memorandum was not published. We received this information from a reliable source in Delhi. Strangely this document was signed also by *all the Roman Catholic bishops of Chaldeo - Malabar origin* who evidently had been thoroughly "converted" to "Latinity". - According to the *Catholic Directory of Kerala 1986*, Alwaye 1986, 186 198, there are fourteen born Orientals who are Roman Catholic bishops in India.



belief that the Roman Catholic or Western Church enjoys preeminence among the other churches, even in regard to its traditions, rites, ceremonies, discipline, etc., "because it is the rite of the Holy Roman Church, the mother and teacher of all churches", as the famous canonist Prosper Lambertini,<sup>4</sup> who eventually became Pope Benedict XIV (1740-1758), formulated. He was not at all hostile in regard to the eastern churches. This formulation which originated in the ecclesiology of that time, has had, however, its impact on many generations of Roman Catholic canonists, theologians and their disciples and is still alive in certain ecclesiastical circles of the western church, even more than twenty years after Vatican II.

An error does not become a truth by being repeated by many. We must hold on to what the council really wished to affirm, namely that every church, eastern and western, has the right and is bound by duty to follow its own discipline, its own law. Each oriental church has its own law, even if several churches may have many legal items in common. The *Codex Iuris Canonici* certainly contains many elements of the common law of the universal Church, elements indispensable for any church, but on the whole it is the expression of the particular law of the Roman Catholic Church (c. 1); it is not the common law of the catholic church as a whole. There is nothing extraordinary in this, and nobody is surprised to see that the Roman Catholic Church is following its own particular law. But why then object to a particular law of the oriental churches? Some ask whether it is necessary to codify an oriental canon law for the Oriental Catholic Churches. The common code for the oriental churches in full communion with Rome will certainly contain all the elements which are common to all of them: nevertheless this code will have to be open for the particular law of the different individual churches, in accordance with the explicit ordination of Vatican II. But an oriental canon law is a necessity urgently felt. Those who refer to a unique code and have in mind the Roman Catholic *Codex Iuris Canonici*, are of the erroneous opinion that this code is *the* common law of the whole catholic church, while oriental canon law can be only

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4. Quoted from A. Petrani, *De Relatione Iuridica inter diversos Ritus in Ecclesia Catholica*, Turin 1930, 36.

particular. This is also the reason why, for them, this statement of Vatican II has become a source of confusion or even scandal.

As each oriental church has developed its own canonical discipline, the council obliges each of them to follow it strictly. This is an obligation of any church, western or eastern. Hence

“to be faithful to their own discipline, to refuse its latinization, to defend its authenticity and its characteristic marks, is for the Orientals not a sign of a separatistic spirit or ecclesial chauvinism: it means for them *to obey the council. Oriental discipline is not a privilege, a favour, a concession, it is for the Orientals as much a legitimate right, as the Codex Iuris Canonici is for the Latins. In this regard, as in many others, the Orientals must learn to reject all inferiority complex and to know defending energetically their own patrimony*”,<sup>5</sup> writes Metropolitan Neophytos Edelby of Aleppo, one of the Fathers of Vatican II.

Victor J. Pospishil had commented, more than twenty years ago, on this article: “The Eastern Churches receive also a general mandate to restore their genuine canonical tradition and to eliminate whatever has crept in from other rites, chiefly the Latin (1986) rite, and which cannot be considered to be due to organic progress”<sup>6</sup>. We would add, in the first part, after the word “traditions” again “in every part of the world” (cf. art. 4), as we find, here and there, all kinds of attempts, to suspend the oriental discipline in the so-called “Latin territories or regions” under the pretext of preserving the Roman Catholics from scandal, as if the oriental traditions and discipline were in any way scandalous and harmful to the catholic church which, in the council, was not at all reluctant to praise the merits of the eastern churches. In our opinion, scandalous is rather the narrow-mindedness of those who prove their inability of grasping the idea of pluralism of legitimate traditions and disciplines forming part of the heritage of the catholic church.<sup>7</sup>

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5. N. Edelby – I. Dick, *Les Eglises Orientales Catholiques: Decret <<Orientalium Ecclesiarum>>* (Unam Sanctam, 76), Paris 1970, 252.

6. V. J. Pospishi, *Orientalium Ecclesiarum: Canonical- Pastoral Commentary*, Bronx (New York) 1965, 22.

7. Cf. V. J. Pospishil, *Ex Occidente Lex. From the west- the Law: The Eastern Catholic Churches under the Tutelage of the Holy See of Rome*, Carteret (New Jersey) 1979, especially appendix III and appendix IV.

6. (a) *All Orientals should know and be convinced that they can and ought always preserve their own legitimate liturgical rites and discipline, and that changes are to be introduced only to obtain an organic improvement. All these, then, must be observed with greatest fidelity by the Orientals themselves. They are to aim always at a more perfect knowledge and a more exact use of them, and if they have fallen short because of contingencies of time and persons, they shall endeavour to return to their ancestral traditions.*

(b) *Those who, by reason of their office or apostolic ministries, are in frequent communication with the eastern churches or their faithful, should be instructed, as the seriousness of their office demands, in the knowledge of and respect for the rites, discipline, doctrine, history and character of the Orientals.*<sup>6</sup>

(c) *To enhance the efficacy of their apostolate, religious institutes and associations of the Latin rite working in eastern regions or among the Oriental faithful are earnestly counseled to found houses or even provinces of eastern rite, as far as this can be done.*<sup>7</sup>

This article has three different addressees:

- a) the Orientals themselves,
- b) the Roman Catholic hierarchy and all those assisting them, i. e. in the first instance the clergy,
- c) the Roman Catholic religious institutes and associations working among or in the service of the oriental churches.

It makes clear that the decree is not at all addressed "to the West only", but, alike all other documents of Vatican II, to the whole Church.

a) This part is addressed to *all* the members of the eastern churches without exception, wherever they may live. It is not restricted to any region or territory. In the preceding article Vatican II emphasized the duty of the eastern churches to rule themselves; here this duty is extended to every member of these

6. Cf. Benedict XV, *Motu proprio Orientis catholici*, October 15, 1917; Pius XV, *Litt. Enc. Rerum orientalium*, September 8, 1928, etc.

7. The practice of the Catholic Church in the times of Pius XI, Pius XII and John XXIII abundantly demonstrates this movement.

churches. Consequently the Orientals must be given the possibility to live accordingly. This obligation is not at all some arbitrariness, but the particular vocation the Orientals have to fulfil for the benefit of the universal church. They have to live the double fidelity to the Orient and to the Catholic Church, "not in the sense that, being Oriental is as important as being catholic, but in the sense that their being catholic imposes on them the fidelity to the Orient"<sup>8</sup>.

Changes may be introduced only, if they really obtain an *internal and organic improvement*. Oriental churches are no archaic relics and museum pieces to be conserved for future generations in some limited corners of the globe, but living organisms, and therefore they are not dispensed from development and evolution (cf. art. 1 and 4). But each development and evolution must come from within, be in harmony with the spiritual patrimony each church is possessing. Blind imitation of other rites and disciplines must be avoided. There is no reason for an external imitation of items of the Roman Catholic church, as if these were the ideal ones in every respect.

Many of such borrowings inherited by the oriental churches from their past have not been necessary and are sometimes even ridiculous, as they serve neither the Latin rite West nor the Christian East. We consider them as simple aberrations. Those who acted in this way, certainly wished only to be "more catholic", but they fell victims of a confusion of "Romanism" and authentic catholicism.

Such external romanizations or latinizations are many, and in some churches they were introduced to a larger extent than in others. They can be easily given up. What meaning can there be in celebrating liturgical services according to an oriental rite in Latin vestments, Roman or Gothic? Why should an Oriental priest be dressed in a Latin-shaped cassock, use a Latin alb or surplice? Unleavened eucharistic bread and thin hosts do not at all embellish the oriental liturgy. We could continue this list by pointing to certain church buildings, the use of (electronic) organs, etc. Such hybrid items still now *en vogue* are consciously or unconsciously the expression of a manifest inferiority

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8. N. Edelby - I. Dick, *Les Eglises Orientales Catholiques: Decret <<Orientalium Ecclesiarum>>* (Unam Sanctam, 76), Paris 1970, 255.

complex. Oriental Catholics must learn to deplore such hybridisms and re-discover their own identity and personality.

The same can be said with regard to ecclesiastical discipline. We do not need a canon law made for or imposed on the Oriental Catholic churches; we need a canon law *of* the oriental churches showing an organic development and progress, although based on the canons of the different ecumenical and patriarchal synods, patriarchs, or other church assemblies. The latinizations introduced into the oriental churches by the legislation of so-called "national synods" of the 19th century are basically deviations. Oriental canon law must be based on the authentic sources of the oriental churches and not merely on papal documents of rather recent origin or on the legislation of the latinizing synods just mentioned. We think especially of those synods held for the Chaldeans, Syrians, Copts and Armenians in the last century.

Oriental patriarchs do not use an honorific title, as those Latin rite prelates do who style themselves "patriarchs". We shall deal with this issue below. The eastern clerical discipline is different from that of the Roman Catholic West. The imposition of celibacy on eastern clerics is not at all a development from within, but has to be seen as somehow dictated either by the desire (or should we say mania?) of western-trained prelates to imitate the Roman Catholics, or because it has been considered by Roman authorities as the means to protect the discipline of Roman Catholic clergymen.<sup>9</sup> Even Pope Paul VI.

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9. Cf. J. Boback, *De caelibatu ecclesiastico deque impedimento Ordinis Sacri apud Ruthenos*, Rome 1941; V. J. Pospishil, "Clerical Celibacy in the Eastern Rite Catholic Dioceses of the United States and Canada": *Diakonia* 2 (1967) 137-155; id., "Compulsory Celibacy for the Eastern Catholics in the Americas": *ibid.* 11 (1976) 259-280; id., *Ex Occidente Lex. From the West—the Law: The Eastern Catholic Churches under the Tutelage of the Holy See of Rome*, Carteret (New Jersey) 1979, 21-44; J. Madey, "Oriental Catholic Churches in North America: Development and present situation": *Christian Orient* 7 (1986) 156-180. As regards the imposition of celibacy on clerics of the Syro-Malankara Church in its own territory, cf. C. Malancharuvil, *The Syro Malankara Church* (The Syrian Churches, 7), Ernakulam 1974, 125 and 130. Quoting the letter of the Apostolic Delegation of East Indians, Prot. no. 1309/29, the author presents us the argument of the Roman Curia: "In the matter of clerical discipline, finally, the Holy See, out of a *feeling of particular esteem*

initiator of the new oriental codification which according to his own words, should be genuinely oriental and ecumenical, was not free of such deliberations, as is proven by his letter of October 31, 1977 addressed to the Melkite Greek Catholic Patriarch Maximos V.

“Specifically, in the matter of the married clergy, we know that it touches on an extremely delicate point, one of the *current practice of the Latin Church*. It appeared to us – to Ourselves and to the Holy See in general – that the discipline of the celibate priesthood must remain unchanged in the Latin Church. This is because we are convinced of its deep meaning and its usefulness for the Church without, on the other hand, prejudicing the different tradition of the Eastern Church.

In those areas where the Latin Church has been established for centuries, it is understandable that the presence of married Eastern priests, constitutes a rather unusual and new fact, poses some *delicate problems for the Latin rite communities*.

This is why the Holy See, as Your Beatitude has been informed from time to time, has decided on this particular point *to suspend the application of the general principle of the preservation of the traditions proper to Eastern communities outside their patriarchal territories*. This has been decided not for the Melkite Church only, but also for other communities which would have liked to apply it in all its extent even in territories not comprised within their patriarchate.”<sup>10</sup>

This letter, despatched from the Congregation for the Oriental Churches on November 14, 1977, is evidently a manifest contradiction of Vatican II’s intention to give the eastern churches civic rights in every part of the world. We also do not regard its argument as in accordance with logic: Why do the interests

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*for the clergy of Malabar, would not want to see those who return to Catholic unity from Jacobitism lag behind their Syro-Malabar and Latin countrymen in a matter of such importance as clerical discipline, and would therefore desire to see them adopt this disciplinary measure for their future priesthood...*” (Emphasis, J.M.)

10. *Diakonia* 13 (1978) 188 f.

of one ecclesiastical tradition possess such a weight that other individual churches are to abstain from living their own traditions? Is the catholic church unable to endure an authentic coexistence of several individual churches in the same place?

Is Patriarch Maximos V not right, when he states, in his declaration of August 9, 1976, i. a.:

“By recommending the celibate clergyman for the Kingdom of God as has been done in the Oriental Churches, the Council explicitly declared that it did *not intend to change to any different discipline*, and very strongly and justly for the Oriental Churches. It exhorts, in love, the married men who had been ordained priests, to preserve in their second vocation and to continue to spend their life completely and generously in the service of their flock which had been confided to them. (Decree on the Ministry and Life of Priests *Presbyterorum ordinis*, art. 16). <.....> While admitting all the same, that it would be necessary in the regions where the faithful of the Oriental Church predominate, to have Latin bishops and priests to serve the Occidental Catholics who are among us, *the idea did not occur to us to demand that they* < the Roman Catholics > *should observe the Oriental discipline.*<sup>11</sup>

The second sentence urges all the faithful of the eastern churches, not excluding the clergy, to acquire a most perfect knowledge of their heritage and to aim at a more exact use of it. This is the very issue! Orientals ignoring what is genuinely oriental, are not scarce. This fact is not at all surprising, as the spiritual élite of the East was formed, for a long time and almost exclusively, in the West, in Rome, Europe or North America. These parts of the globe have had a great attraction for them. But the intellectual centres of the West, until recently, did not pay much attention to things oriental considering them as rather not relevant to modern times: an attitude to be found in most of the western theological faculties even today. The western-oriented oriental intellectuals have had nothing to contribute to a revitalization or restoration of the oriental heritage. Being imbued with

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11. *Le Lien* 42/1-2 (1977) 45 f. (English version: *Diakonia* 13 <1978> 185 f.)  
The whole issue is also well presented in the article ‘‘Coming of Age’’:  
*25th National Melkite Convention, Washington, D.C.* <1984> .

new ideas prevailing in the West at the time of their studies, they have been most eager to communicate them to their churches and milieu, so that they have become the partisans of a still broader occidentalization or latinization.

So it happened that, to the surprise of the Fathers of Vatican II, prelates representing the eastern catholic churches, expressed, in excellent Latin, much of Latin scholastic theology in their interventions, the fruit of their Latin formation. They had received then the best elements of the Latin patrimony, but remained ignorant of their own Fathers in the faith.

Indeed, if we look into the *Annuario Pontificio*, we shall realize that, apart from the Pontifical Oriental Institute in Rome, there are only two academic institutions of university level recognised as "Ecclesiastical Faculties", and these were recognised as such as late as 1982: the Maronite University of the Holy Spirit at Jounieh-Kaslik in Lebanon and the Pontifical Oriental Institute of Religious Studies, Paurastya Vidyāpīṭham, at Kottayam, Kerala, India<sup>12</sup>. In the past, there was the Theological Academy of the Ukrainian Church at Lwiw under the rectorate of Josyf Slipyi, which, however, was suppressed when the western part of Ukraine was incorporated into the Soviet Union after World War II.

The two new academic institutions have become a promising sign for the future being efficient multipliers, and some other institutions for higher ecclesiastical studies of the eastern churches

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12. In India, there are two more theological faculties attended also by Oriental students which are sometimes listed among Oriental academic institutions because of their relation to the Congregation for the Oriental Churches: the Dharmaram Pontifical Institute of Theology and Philosophy in Bangalore and the Pontifical Institute of Theology and Philosophy at Alwaye, Kerala. These schools of theology, however, are rather occidental in character, and Oriental theology plays rather a subordinate role there. The Alwaye institute draws its origin from the *inter-ritual* St. Joseph's Major Seminary and was directed, until recently by Roman Catholic Spanish missionaries. It is not under the exclusive supervision of the Oriental hierarchy. This is why we consider the Kottayam faculty as the only Oriental one in India.



both in the Near East and in India owe them directly or indirectly their creation.<sup>13</sup>

A clergy trained in an authentic eastern way is a prerequisite for a genuine restoration of the eastern patrimony among the Orientals who are urged by Vatican II to live it in all its aspects: spirituality, liturgy, discipline, mystics, iconography, etc. A genuine training for the clergy must be coupled with a genuine catechization of the faithful giving the necessary impulse to live their own patrimony showing at the same time respect and love of other legitimate traditions developed in the universal church. "A practice deprived of knowledge becomes easily fanaticism; but knowledge without corresponding practice is not enough to safeguard the eastern heritage in life."<sup>14</sup>

Genuine oriental education of clergy and laity will become also the starting point of a renewal of monasticism in the eastern catholic churches which had declined because of many reasons including the aim of adapting themselves to the "active" Latin orders and congregations. It must be said that, in this regard, the Orientals departed farther than the Roman Catholics from the ideal of monasticism. But we have to state, that, after Vatican II, a hopeful rethinking has begun, and new monastic communities have been formed in several of the oriental catholic churches.<sup>15</sup>

The facts indicated above show clearly how important it is for the Orientals to strive to return to their ancestral traditions. The life of the oriental catholic churches was hard in the past centuries. They had to live under different and difficult conditions. Those living under the rule of Roman Catholic ecclesiastical or civil authorities, were forced to conform themselves more or less to

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13. In this context, mention should be made e. g. of the Melkite Major Seminary in Raboueh near Antelias, Lebanon, the Syro-Malankara Major Seminary in Trivandrum, Kerala and the unique St. Ephrem's Ecumenical Research Institute in Kottayam, Kerala (under the auspices of the Syro-Malankara Eparchy of Tiruvalla.)

14. N. Edelby - I. Dick, *op. cit.* 259.

15. We think here e. g. of the Ukrainian Monastery of Holy Transfiguration in Redwood Valley, California, as well as of different male and female monastic communities of recent origin in the Melkite Greek Catholic Church (Holy Land Lebanon, United States). Cf. *Le Lein* 51/3-4 (1986) 164, 230-239.

the expectations of their lords. This was the case in Eastern Europe where they also had to organize the administration of the eparchies and their cathedrals according to the Latin model and more particularly in India where they were placed under the jurisdiction of Roman Catholic foreign bishops for centuries (in their own country!). Sometimes they had to live among an Orthodox majority which was ready to tolerate somehow the Roman Catholic Church, but not a church similar to their own but in communion with Rome and not with them. They have called these eastern churches "Uniate" in a despising way. Thus these "uniate" churches were led to conform more and more to the Roman Catholics in their external outlook and to adopt their liturgical, devotional and disciplinary items. The oriental clergy trained by Roman Catholic missionaries in the latter's seminaries did not have great difficulties regarding this line of conduct.<sup>16</sup> The task Vatican II has imposed on the Orientals is thus a hard one which is to be executed with much prudence and patience, most of all with conviction! Sometimes the Orientals have had to be urged by the Popes and the Holy Roman See to implement the decisions of the council in this regard, as we have observed in the Chaldeo-Malabar Church where a large part of the clergy continues to be very much attached to all the inherited hybrid forms and has not been able to develop a particular ecclesial consciousness of their own.<sup>17</sup> In other churches, Vatican II's decrees have become a Magna Carta to go ahead so that even Roman authorities find it hard to follow their vigorous procedures (e. g. in the patriarchal churches and parts of the Ukrainian Church). A conversion of the latter seems to be as necessary as of the former.

b) The Fathers of Vatican II may have anticipated the difficulties. Therefore they are addressing also those Roman

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16. Cf. E. Zoghby, *Uniatisme et Oecumenisme*, Cairo 1963; W. de Vries, *Rom und die Patriarchate des Ostens*, Freiburg-Munich 1963, 223-392.

17. Cf. J. Madry, "The Reform of the Liturgy of the Syro-Malabar Church and the Holy See of Rome" (with documentation). *Ostkirchliche Studien* 30 (1981) 130-168; V. Pathikulanzara, "Liturgical Reforms in Chaldeo-Indian Church": *Diakonia* 16 (1981) 147ff.; J. Madey, "On the Reform of the Chaldeo-Malabar Liturgy: The Holy See of Rome in Defence of the Oriental Patrimony" (with documentation): *Ostkirchliche Studien* 33 (1984) 172-199.

Catholics in responsibility who have frequent relations with the Oriental churches or faithful of these churches. This part of article 6 must have its impact: (1) On the prefect and the officials of the Congregation for the Oriental Churches, the Latin cardinal-members of this congregation not excluded. How can they fulfil their obligation, if their knowledge of oriental matters is not at all extant or very poor? (2) On the Roman Catholic bishops and priests working in regions and territories where Oriental churches or groups of faithful of these churches are living, sometimes confided to their jurisdiction and pastoral solicitude. It is, therefore, reasonable, that Roman Catholic dioceses offer scholarships to priests willing to continue their studies, e.g. at the Pontifical Oriental Institute in Rome in order to acquire the necessary knowledge on the eastern, catholic and non-catholic, churches. Such trained experts could render the Roman Catholic dioceses valuable services in many regards. Especially priests who are Orientals by birth should be offered such a possibility to enable them, on their return, to render the Oriental faithful the best service possible of living their Oriental heritage.

In this connection, we refer once again to art. 4 (c) and our comment above (p. xx < 25 >)

c) Finally, Roman Catholic religious institutes and associations working in eastern regions or among Oriental faithful are encouraged to found houses or even provinces of "eastern rite". Many of them have a considerable number of members belonging to different eastern churches, as e.g. the Society of Jesus, the Capuchins, Salesians, etc., and some of them have even become members of the hierarchy of their respective churches.

The number of Roman Catholic religious institutes working among Orientals is not small, but only in very few cases have these really integrated themselves into the individual churches they wish to serve. A mere external adaptation in a certain place or for a certain time is not sufficient and does not come up to expectations of Vatican II nor meet the exigencies of our time.

The Franciscans in Upper Egypt forming a province of their own, have fully integrated into the Coptic Catholic Church, so also those of the Custody of St. Mary of the Angels into

the Ruthenian-Ukrainian Churches in the United States; the Ukrainian Redemptorists are forming a province of their own in Canada and the United States; there are Benedictine monasteries who have an eastern deanery which follows on eastern "typicon" in regard to their liturgical and spiritual life. Other orders and congregations have permanent Oriental houses, however, within Roman Catholic provinces, and it happens more or less frequently that members of such religious institutes are transferred from one house to another without taking into consideration their ecclesial affiliation.

What Vatican II intends is that those who are Orientals by birth or choice, truly live the Oriental patrimony and integrate themselves into the individual church. Every Catholic belongs to one of the individual churches; he cannot be "between" several individual Churches. Therefore it is evident that "an *inter-ritual* institution is practically an *a-ritual* institution".<sup>18</sup> The simple practice of bi-ritualism proposed by some is no solution of the inter-church issue, not even in practice. As it is practically impossible to live several spiritual and liturgical traditions seriously and at the same time, so it is also impossible to be at the same time under the disciplinary laws of several hierarchies. "Interritualism" is rather a makeshift which may be temporarily tolerated for the good of souls, but it cannot be justified ecclesiologically.

## CHAPTER IV

### THE ORIENTAL PATRIARCHS

This part of the decree contains five articles. It lays down some principles on the patriarchs and their jurisdiction (art. 7), the rank and order of precedence among them (art. 8), the authority of the patriarch (art. 9), the major archbishops

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18. N. Edelby - I. Dick. *op. cit.* 265.

enjoying quasi-patriarchal authority (art. 10) and the erection of new patriarchates (art. 11).

7. (a) *The patriarchal institution has existed in the Church from the earliest times and was recognised as such by the first ecumenical synods.*<sup>8</sup>

(b) *By the name of Oriental patriarch is meant a bishop who possesses jurisdiction over all bishops, not excepting metropolitans, the clergy and the faithful of his own territory or rite, in accordance with the norm of law and without prejudice of the primacy of the Roman Pontiff.*<sup>9</sup>

(c) *Wherever a hierarch of any rite is appointed outside the boundaries of the patriarchal territory, he remains attached to the hierarchy of the same rite, in accordance with the norms of law.*

a) Although in the form of a general statement, this paragraph emphasizes the fact that the patriarchates trace their origin to ancient times and are a common heritage of the whole church, in the East as well as in the West. They developed from the supra-episcopal authority of the metropolitan sees. It is commonly known that the church administration followed, more or less, since the late third century, the civil division of the Roman empire. At the first council of Nicea the relation of the eparchy in regard to the metropoly is defined in c. 9. The same council speaks, however, also of a supra-metropolitan authority of the churches of Rome, Alexandria and Antioch (c. 6). The bishops of these great cities, to which later, at the first council of Constantinople in 381, the Bishop of Constantinople, the New Rome, was added, were called Arch-Bishops; they assumed the title of patriarch when the number of honorary archbishops had considerably increased,

Etymologically, the word 'patriarch' means 'head of a family' or 'head of the tribe', as we find it in the Old Testament. In the New Testament, Abraham is denoted as "father of many nations", and perhaps this semitic understanding is

8. Cf. I Nic. c. 6; I Const. cc. 2 and 3; Chalch. c. 28, c. 9; IV Const. c. 17, c. 21; IV Lateran c. 5, c. 30; Florence, Decree for the Greeks; etc.

9. Cf. I Nic. c. 6; I Const. c. 3; IV Const. c. 17; Pius XII, *Motu proprio cleri sanctitati* c. 216 § 2 ≠ 1.

more congruous with the title, Patriarch, than the rather legal connotation the term obtained in the Roman empire.

*Within the Roman empire* the five main churches became the patriarchates—of Rome, Constantinople, Alexandria, Antioch, and because of its historical role in the economy of salvation—Jerusalem. This order in rank or preeminence, though going back to the times of Justinian, was definitely accepted also by Rome in the 9th century, when the Roman pontiff approved the canons of the fourth ecumenical council of Constantinople. Rome explicitly approved this order at the fourth Lateran council proper to the church of the West.

It must be mentioned here, that owing to the christological controversies of the 5th century and the rise of what was called 'Monophysitism', both the patriarchates of Alexandria and Antioch were split, the Chalcedonian and the anti-Chalcedonian factions establishing separate patriarchates of their own, each claiming to be the orthodox successor of the original one. At Antioch, there appeared a third patriarchate in the 8th century, that of the Maronites, which had its origin in the too long vacancy of the Chalcedonian patriarchate caused by the Arab invasion. So we had at that time, in the East, the following patriarchates: Constantinople: Chalcedonian (Greek).

Alexandria: Anti-Chalcedonian (= Coptic) and Chalcedonian (Greek) Antioch: Anti-Chalcedonian (= Syrians), Chalcedonian (Greek), Syro-Maronite (Chalcedonian)

Jerusalem: Chalcedonian (Greek)

In the West, from the very beginning, the only true patriarchate has been that of Rome, the primatial see of the universal church. Although the bishop of Aquileia-Grado assumed the patriarchal title in 607, when that church led rather an independent existence, this church never had such importance as the five ancient patriarchates; in 1451, Pope Nicholas transferred the patriarchal title to the church of Venice.

There are now some other local churches enjoying the patriarchal title: West Indies, East Indies (Goa), Lisbon, and Jerusalem, but none of their titulars can be regarded as

“father and head” of an individual church; it is a purely honorific title which easily could be abandoned.

In contrast, the eastern patriarchates have always enjoyed full autonomy in respect of their ecclesial life.

*Outside the Roman empire* we find very early individual churches ruling themselves according to their own norms, organized in a similar way as the patriarchates inside the Roman empire. We have to mention in this context the Armenian Church, the Syro-Oriental Church<sup>1</sup> and the Georgian Church.

(1) The Armenian Church's hierarchy has its origin in the ancient exarchate of Pontus whose metropoly was Caesarea in Cappadocia. Its supreme hierarch adopted the title of *catholicos* (universal bishop) and declared himself independent in 374 for political reasons. In the synod of Dvin (506/507), the Armenian Church joined the Anti-Chalcedonians. Schisms within the Armenian Church led, in the Middle Ages, to the establishment of other catholicates and the patriarchate of Jerusalem; another patriarchate was established in Constantinople by Mohammed II in 1461. Today there are two Armenian catholicates of Sis, the former capital of the Kingdom of Little Armenia, created in 1293, and the catholicate of Edzmiacin created in 1441. The latter is regarded as the Supreme Catholicate of All the Armenians and the patriarchates of Jerusalem and Constantinople / Istanbul acknowledge its authority. Thus in the Armenian Church, the catholicate has become superior to the patriarchate. In recent times, however the catholicos of Edzmiacin has added the patriarchal title to that of catholicos styling himself *Supreme Patriarch-Catholicos of All the Armenians*. The other catholicos has kept his traditional title of *Catholicos of Cilicia*, while the titulars of Jerusalem and Constantinople are *Patriarchs - Archbishops*.<sup>2</sup>

(2) The Syro-Oriental Church or “Church of the East” owes its origins to the metropoly of Edessa. Its main church was that

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1. In historical documents, this church appears under different designations: Church of the East, Church of the St. Thomas Christians, Church of Persia, Assyro-Chaldean Church, Nestorian Church, Chaldean Church.
  2. Cf. F. Heyer (ed.), *Die Kirche Armeniens: Eine Volkskirche zwischen Ost und West* (= Die Kirchen der Welt, 18), Stuttgart 1978, 219.

of Seleucia-Ctesiphon, and in the synod of 424, the *catholicos* of this city, the capital of the Sassanid empire, declared himself autonomous. Having not taken part in the ecumenical synod of Ephesus and having refused its dogmatical formulations, it is generally held that this church embraced the heresy of "Nestorianism" around 486. Recent research studies, however, have shown that this thesis is untenable.<sup>3</sup> *Catholicos Mār Abā* added to his title also that of patriarch at the synod of 544. It is this church which, in spite of its diaspora situation, showed a particular vigour in spreading the Gospel in central Asia and China; it also sustained the ecclesiastical life in its Indian sister-church by giving it the hierarchy for many centuries. Both the Church of the ancient Sassanid empire and the Church of India, share in the apostolic heritage of St. Thomas, one of the Twelve. At present, the remnants of this ancient church are split into two jurisdictions both headed by a *Catholicos-Patriarch of the (Ancient) Church of the East*.<sup>4</sup>

(3) The Georgian Church is the only Eastern Orthodox Church whose supreme hierarch has the title *catholicos*. The Christian religion being the state religion since the 4th century, the Georgian Church whose mother-church is the patriarchate of Antioch, had become autocephalous already in the 5th century; the protohierarchs who had the title of *catholicos-archbishop* were ordained by the Chalcedonian Patriarch of Antioch until the 8th century. In 1811, when Georgia was under Russian dominion, the catholicate was suppressed and integrated into the Russian Orthodox Church. It was restored only in 1917 and acknowledged as autocephalous (at least nominally) by the Russian Orthodox Church in 1943. Its canonical status is not universally recognized. The Ecumenical Patriarchate considers the Georgian Church as the first of the autonomous churches dependent on it. Today the protohierarch of the Georgian Church has the title of

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3. Cf. L. I. Scipioni, *Ricerche sulla Cristologia del "Libro di Eraclide" di Nestorio*, Fr'bourg 1956; id., *Nestorio e il Concilio di Efeso*, Milan 1934; P. J. Pōdipara, "The Mariology of the Church of the East": *Christian Orient* 2 (1981) 165-182; L. Sako, *Le Role de la Hierarchie Syriaque Orientale dans les rapports diplomatiques entre la Perse et Byzance aux Ve-VIIe siecles*, Paris 1986.

4. Cf. N. Wyrwoll (ed.), *Orthodoxia 1984 mit Alt-Orientalen*, Ragensburg 1984, 69f.



Archbishop of Mc 'het'a, Metropolitan of Tbilisi, *Catholicos Patriarch of Georgia*.<sup>5</sup>

All the other Eastern Orthodox patriarchates are of later origin.

(1) The Serbian Patriarchate which has a rather complicated history, had a hierarch with this title for the first time in 1346. It was restored permanently in 1848 in that part of Serbia which then belonged to Hungary. Since 1920, the residence of the Serbian patriarchs is in Belgrade.<sup>6</sup>

(2) The Russian Patriarchate of Moscow was established for the first time in 1599. It was suppressed by czar Peter the Great in 1700 and restored in 1918 by an All-Russian council. The patriarch had the title of "Patriarch of Moscow and All Russia".

(3) The Orthodox Church of Romania, autonomous since 1873, made itself a patriarchate by the vote of the parliament and a royal decree. The archbishop of Bucarest is the "Patriarch of the Romanian Orthodox Church".

(4) The youngest among the Eastern Orthodox patriarchates is that of Bulgaria: Revolting against Constantinople, the Bulgarians gave the head of their hierarchy the title of *Exarch* in 1870. In 1945, the schism between the Bulgarian Church and the Eccumenical Patriarchate was suspended, and in 1953 Constantinople recognized it as autocephalous. On May 10, 1953, the first Patriarch of Bulgaria was elected. He is the metropolitan of Sofia.

In the Oriental Orthodox Churches, the Coptic Church granted the Ethiopians an archbishop of their own nation only in 1951. Thus the way was paved towards autocephaly or autonomy. In 1959, the Ethiopian Church was given a *Patriarch and Catholicos of the Ethiopian Orthodox Church*. The title catholicos seems to have been given up very soon afterwards. The patriarch resides at Addis Ababa.<sup>7</sup>

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5. *Ibid.* 35.

6. V. Pospischil, *Der Patriarch in der Serbisch-Orthodoxen Kirche*, Vienna - Freiburg 1965, passim.

7. Cf. N. Wprwooll (ed.); *op. c.* 30.

*The Eastern Catholic patriarchates*, i. e. the patriarchates in communion with the Holy See of Rome, appear in the history at different dates as separate entities.

With the exception of the Maronite Patriarchate of Antioch which has been in an uninterrupted ecclesial communion with Rome since the times of the crusades (12th century), the other patriarchates were organized separately when the hierarchies of the respective patriarchates were doubled forming an orthodox and a catholic branch (18th, 19th centuries). Today there are eight oriental catholic patriarchates headed by six patriarchs:

*Antioch*: the Greek- "Melkite" patriarchate whose titular is holding also the title of the patriarchates of Alexandria and of Jerusalem (since the 19th century);

the Syro-Maronite patriarchate;

the Syrian patriarchate.

*Alexandria*: the Greek- "Melkite" patriarchate administered by a Vicar-Archbishop of the Patriarch of Antioch;

the Coptic patriarchate.

*Jerusalem*: the Greek- "Melkite" patriarchate administered by a Vicar-Archbishop of the Patriarch of Antioch.

*Cilicia*:: the Armenian catholicate-patriarchate.

*Babylone*: the Chaldean ("Church of the East") catholicate-patriarchate.<sup>8</sup>

The other non-catholic patriarchates are without a catholic counterpart.

The following survey indicate the patriarchal churches existing now throughout the world.

8. See *Annuario Pontificio 1986*, Vatican City 1986, 3-7.

<i>Eastern Orthodox Churches</i> <sup>9</sup>	<i>Eastern Catholic Churches</i>
Ecumenical Patriarchate of Constantinople	—
Greek Patriarchate of Alexandria	Greek Patriarchate of Alexandria
Greek Patriarchate of Antioch	Greek Patriarchate of Antioch
Greek Patriarchate of Jerusalem	Greek Patriarchate of Jerusalem
Patriarchate of Moscow	—
Serbian Patriarchate	—
Patriarchate of Romania	—
Patriarchate of Bulgaria	—
(Catholicate-patriarchate of Georgia)	—
<i>Oriental Orthodox Churches</i>	<i>Oriental Catholic Churches</i>
Coptic Patriarchate of Alexandria	Coptic Patriarchate of Alexandria
—	Syro-Maronite Patriarchate of Antioch
Syrian Patriarchate of Antioch	Syrian Patriarchate of Antioch
Supreme Armenian Catholicate of Edzmiacin	—
Armenian Catholicate of Cilicia	Armenian Catholicate of Cilicia
Patriarchate-catholicate of the Church of the East (Teheran)	Chaldean Patriarchate- catholicate of Babylone
Patriarchate-catholicate of the Church of the East (Baghdad)	

b) This paragraph defines what an *oriental* patriarch is, but as Edelby puts it<sup>10</sup>, its contents could also be applied to the Roman Pontiff in his capacity as *Patriarch of the west*, not, however, to

9. We are using, for the non-Catholic churches the nomenclature of the World Council of Churches. As regards the Catholic churches, there is, of course, no dogmatical difference whatsoever between the "eastern" and the "oriental" churches which are all in ecclesial communion with Rome; this is why for them "eastern" and "oriental" is indiscriminately used in the text.

10. N. Edelby-I. Dick, *Les Eglise Orientales Catholiques* 316.

any other Roman Catholic prelate having the patriarchal title. The text is almost the same in the motu proprio *Cleri sanctitati*, c. 216 § 2 ≠ 1. Nevertheless there are some modifications which should be noted because of their importance for a correct understanding.

The patriarch is a bishop who possesses jurisdiction over all bishops, not excepting the metropolitans. The Fathers of Vatican II avoided the statement that "the ecclesiastical canons are attributing jurisdiction" to him which would obviously be historically false, as the patriarchal authority, existed, in effect, already before any canon was formulated. The patriarchal authority, although being of ecclesiastical institution, is often larger than what the canons say. The life of the patriarchal churches is not simply ruled by canonical dispositions emanating from the authority of the Roman pontiff. On the contrary, having taken their origin and development independently, they, "historically and theologically owe nothing to Rome in regard to what is constituting them" <sup>11</sup>.

So also the recent draft (schema) containing the canons regarding the hierarchical constitution of the oriental churches does not copy the text from the above quoted motu proprio, but says:

"Under the name of Patriarch comes a bishop to whom is due the power over all the bishops, not excepting the metropolitans, the clergy and the people of his own patriarchal church, in accordance with the legal norm approved by the supreme authority of the Church" (c. 25). <sup>12</sup>

From all these it follows that the power of the patriarch is "according to the norm of the canons and the legitimate customs" <sup>13</sup> an ordinary, not a supplementary or delegated one.

The council speaks of the patriarchal jurisdiction over all the clergy and the faithful of his own territory or (*vel*) rite, not over a *certain* territory, i. e. (*seu*) rite. This is an essential progress. Being the titular of a patriarchal see, he is the supreme head of an individual church. So his jurisdiction and authority

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11. *Ibid.*

12. Schema Canonum de Constitutione Hierarchica Ecclesiarum Orientalium. *Nuntia No. 19*, Vatican City 1984, 24, c. 25.

13. *Ibid.* 29, c. 47.

transcend the original territory of the ancient patriarchates. Being the 'father of many nations', he is tied with all his faithful wherever they might be, by a kind of 'family bond'.

Having taken into consideration the present situation of the churches of oriental tradition, the faithful of which are now spread in large numbers throughout the world, the Oriental Canon Law commission has used the term "patriarchal church" when speaking of what the council called "Church or rite". Whenever the patriarchal authority is strictly limited to the original territory, this is expressly mentioned by "boundaries of the territory (*fines territorii*) of the patriarchal church". Consequently we must keep in mind this distinction.

"The council does not say that the oriental patriarchs are possessing jurisdiction over their own territory and, within this territory, over their own *faithful*, but that they have jurisdiction over their own territory *or* their own rite. From this we draw the conclusion - as it seems, legitimately - that the patriarchal jurisdiction has certainly geographical limitations, but that it transcends these also in favour of the faithful of the rite living outside the geographical circumscription of the patriarchate. The patriarch is the head of a territory *or* of a rite. His jurisdiction can be territorial, but it can *also* be ritual, hence not bound to a territory. It is not merely *territorial-ritual*, if these two qualifications are considered as indispensably complementary; it is territorial *and also* ritual. In other terms, it can be *only territorial, territorial-ritual or only territorial and ritual*.

It is *only territorial*, if it is exercised exclusively over all the faithful residing in the patriarchal territory. This was the case in ancient times. It is *territorial-ritual*, if it is exercised only over the faithful of a determined rite living in the patriarchal territory.

It is *territorial and ritual*, if it is exercised not only over the faithful of a determined rite residing in the patriarchal territory, but also over the faithful of the same rite wherever they live, even outside the patriarchal territory"<sup>14</sup>.

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14. N. Edelby-I. Dick, *op. c.* 319.

Having thus paved the way, the council assures every Catholic, eastern and western, that he can be at home everywhere. "If the Orientals are at home everywhere in the world, they also have their patriarchs everywhere."<sup>15</sup>

While acknowledging the patriarchs' prominent rôle and authority in regard to everything pertaining to the rite of their respective patriarchal churches, the draft of the Oriental Canon Law commission reserves to the Roman pontiff his *exclusive* territorial jurisdiction over the faithful of the patriarchate of the West as well in its original territory as in its extensions in other continents. So it becomes once again evident that the Roman Catholic Church is essentially one patriarchate. The only difficulty is in understanding where the Roman Pontiff exercises his patriarchal authority and where his universal primatial authority.

It is a matter of course that the Oriental Catholic Churches *acknowledge and accept the prerogatives of the primacy of the Roman pontiff*. This means that patriarchal authority is not absolutely independent or equal to that of the Roman pontiff as *Supreme Pontiff of the Universal Church*. Primacy and patriarchal authority ought not to be confused, as it has often been done in the West and has led to many unhappy events in the course of history. Primacy in the church is the *personal prerogative* of St. Peter's Roman successor. It is not shared by any Roman dicastery.

"But as the exercise of patriarchal power must not at all diminish the prerogatives of Roman primacy, the exercise of Roman primacy must not diminish the patriarchal prerogatives. These are *two coordinated and subordinated, but not opposed institutions*".<sup>16</sup>

c) The council defines, in this paragraph, the legal position of the oriental hierarchs outside the traditional patriarchal territory. These hierarchs are either eparchial bishops or apostolic exarchs in the rank of titular bishops. The latter are governing a certain portion of oriental faithful in the name of the Roman pontiff.

15. *Ibid.* 320.

16. *Ibid.*

The council Vatican II explicitly wished to state that all these hierarchs are not to be considered as isolated from their respective mother-church or even as parts of the majority Roman Catholic Church, i.e. the patriarchate of the West, following another liturgical practice, but that they remain attached, *aggregati*, to the hierarchy of their respective patriarchal church, according to the norms of law, i.e. the law to be codified.

It is a commonly known fact that today half of the faithful of the oriental patriarchates – or even more! – are living outside the traditional boundaries. If the patriarchal jurisdiction were to be limited to the traditional territory, as it was in ancient times, its consequence will be to divorce all these faithful from their patriarchal church.

Of course, patriarchs are, in the first instance, patriarchs of a determined see. The patriarch of the West (Rome) is neither the patriarch of Constantinople nor of Antioch nor of Jerusalem etc., just as the Chaldean Patriarch of Babylone is not the patriarch of Alexandria or of another patriarchal see. No patriarch can claim to be the patriarch of the whole world. Nevertheless, since the time of Pope Leo XIII, the jurisdiction of the oriental patriarchs has been extended to territories outside the boundaries of their own traditional patriarchal territory. The Greek-Melkite patriarch was given even the title of Alexandria and of Jerusalem together with the jurisdiction over all the Melkite faithful living inside the then Turkish empire. Although he has not been given the title of Constantinople, the Melkite community in the former capital of the Byzantine empire was also attributed to his jurisdiction. The same can be said in regard to all the other Catholic patriarchs of Antioch, the Armenian catholicos-patriarch of Cilicia and the Chaldean patriarch-catholicos of Babylone. All of them are exercising ordinary jurisdiction over their faithful in the same territories. So we may draw the conclusion that the “patriarchal territory” of all the patriarchs mentioned above comprises the following states: Lebanon, Syria, Turkey, Jordan, Israel, Iraq, Iran, Afghanistan, Egypt, Sudan, and Libya. Where no hierarchy is established, the patriarch may appoint vicars to rule over the faithful in his name.

A like extension of the patriarchal authority over the faithful of the respective patriarchal church living elsewhere is theoretically possible also in our time. Otherwise unnecessary problems will arise where oriental faithful are living outside the above-mentioned countries. In this context, the situation of oriental Catholics in India should also be considered. The Indian subcontinent formed originally an integral part of the Chaldean Church ("Church of the East") and has been, eventually, declared a "Latin territory" at a time when colonial powers dominated over it. Even at present many Roman Catholic hierarchs in India defend crabbedly the *status quo* tolerating an oriental jurisdiction only in some restricted areas.

*Actually* the following patriarchal churches possess eparchies or other jurisdictional units outside their traditional territory:

**1. Greek-Melkite Church of Antioch:**

Eparchy of Newton (U. S. A.)  
 Eparchy of Our Lady of Paradise at São Paulo (Brazil)  
 Eparchy of St. Saviour's in Montreal (Canada)

**2. Maronite Church of Antioch:**

Eparchy of Saint Maron of Brooklyn (NY, U.S.A.)  
 Eparchy of Our Lady of Lebanon at São Paulo (Brazil)  
 Eparchy of Saint Maron of Sydney (Australia)  
 Eparchy of Saint Maron in Montreal (Canada)

**3. Armenian Church of Cilicia:**

Eparchy of Holy Cross in Paris (France)  
 Apostolic Exarchate for Latin America including Mexico  
 (Buenos Aires)

Apostolic Exarchate for the United States of America and  
 Canada (New York, NY)

**4. Chaldean Church of Babylone:**

Eparchy of Saint Thomas the Apostle of Detroit (South-  
 field, MI, U.S.A.)

Since this paragraph applies also to the *Ukrainian Church* whose protohierarch is a major archbishop enjoying quasi-patriarchal, i. e. supra-metropolitan, authority, we have to add:



1. The Metropolitan Province of Philadelphia (PA, U. S. A) with its suffragant eparchies of (a) Stamford, CT, (b) St. Nicholas of Chicago, IL, (c) St. Josaphat in Parma, OH;

2. The Metropolitan Province of Winnipeg (Manitoba, Canada) with its suffragant eparchies of (a) Toronto, Ontario, (b) Edmonton, Alberta, (c) Saskatoon, Saskatchewan, (d) New Westminster, British Columbia;

3. Eparchy of Saints Peter and Paul of Melbourne (Australia)

4. Eparchy of Saint Mary "del Patrocinio" in Buenos Aires (Argentina)

5. Eparchy of St. John the Baptist of Curitiba (Brazil)

6. Apostolic Exarchate for France, Switzerland and the BENELUX countries (Paris)

7. Apostolic Exarchate for Germany and Scandinavia (Munich, Germany)

8. Apostolic Exarchate for Great Britain (London)

According to the draft containing the canons regarding the hierarchical constitution of the oriental churches<sup>16</sup>, hierarchs attached to the patriarchal churches can be metropolitans (c. 111) as well as eparchial bishops (c. 124) or apostolic exarchs (c. 288 § 2).

After Vatican II the issue of the hierarchs "attached to the hierarchy" of their patriarchal church created serious difficulties also within the Roman dicasteries who were used to deal with them rather as 'detached'. So it happened that the Congregation for the Oriental Churches appointed immediately, without giving any consideration to the patriarch and his synod or to the Ukrainian major archbishop and his episcopal confrères, the first Greek-Melkite apostolic exarch in the United States and several Ukrainian bishops respectively.

Vigorous protests both from the Melkite hierarchy and the faithful in the United States<sup>17</sup> as well as from the Ukrainian

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17. See the excellent presentation of the whole issue published under the title "Coming of Age"; *25th National Melkite Convention*, Washington, D. C., 1984 (unfortunately the pages of this volume are not numbered).

major archbishop Josyf (Cardinal Slipyj) led to the publication of a decree of the Congregation for the Oriental Churches assuring some participation of the patriarchal synods in the election and the appointment of hierarchs outside the boundaries of the patriarchal traditional territory.

This decree or declaration was signed on March 25, 1970 by the then perfect of the Oriental Congregation, Maximilien Cardinal de Fürstenberg and the secretary of the same dicastery, Archbishop Mario Brini. It marks some improvement, but does not yet respond fully to the spirit of the conciliar decree nor to the necessities and claims of the Oriental patriarchal churches. Therefore, after its reunion of August 17-22, 1970, the Holy Synod of the Greek-Melkite Church issued a communiqué stating that the standpoint of this church remained unchanged and that the system described in the above mentioned declaration would be regarded only as transitory, i. e. presenting three candidates by the synod from among whom the 'Holy See' elects one.<sup>18</sup>

In his letter addressed to "our beloved sons, priests and lay people of our Melkite Church in the United States"<sup>19</sup>, in view of the seriousness of the situation, Patriarch Maximos V writes i. a.:

"1. It has been suggested that the concern of your Patriarch and Synod in this matter is an attempt at a kind of spiritual, ecclesiastical, or even material aggrandizement. This is a calumny.

Let it be clear first that the effort to assure the Melkite Church of a worthy successor for Bishop Najmy < the one appointed directly by Rome > is not an individual act of the Patriarch but the collegial action of the Holy Synod of bishops. The Synod has assembled repeatedly at Ain Traz <Lebanon> during this period and it is on behalf of the Synod that all the patent negotiations with the Roman See have been undertaken.

2. Much has been made of the role of the Patriarch with his Synod inside and outside the patriarchal territory.

18. Cf. *Le Lien* 35/5-6 (1970) 12.

19. Published in "coming of Age" (see ann. 17).

Perhaps it is necessary to recall that even before the Second Vatican Council the late Pope Pius XII acknowledged a measure of power of the Patriarch in relation to the faithful of his rite everywhere (*motu proprio Cleri sanctitati* can 216). Unhappily this was not further defined and developed in the Eastern Catholic Churches.

What in fact is this distinction between the patriarchal territory and other regions? In antiquity there was indeed a relatively clear division of territories, which embraced the several patriarchates of the East and the Western or Roman patriarchate. The territorial divisions have meant little since the middle ages. For example, since the end of the eleventh century, the Latin Church has established its own jurisdictions outside its traditional patriarchate. The absolute equality of the several rites – including the Latin rite, which enjoys no superiority because its head is also the chief bishop of the Catholic Church – and indeed the very concept of patriarch as the father and head of a particular Church or rite demand that he have and exercise a sacred authority of service for all the faithful of his Church or rite, wherever they may be.

3. This is the reason why the Second Vatican Council, after asserting the equality of the rites, explicitly altered the earlier definition of patriarchal authority. In the past the jurisdiction of the Patriarch had been said to be co-extensive with a territory. The Decree on the Eastern Catholic Churches (no. 7) acknowledged the development mentioned above, namely, that the Patriarch (with his Synod of course) has authority over either the patriarchal territory or over the entire rite. The latter is the case in the Melkite Church.

For the same reason, the Second Vatican Council insisted that bishops who may be outside the traditional patriarchal territory must be attached to the hierarchy of their Church or rite (no. 7). The Council properly decreed that such bishops should also belong to the respective territorial episcopal conferences of the prevailing rite and recommended that the Eastern bishops take into action the common needs of their territory (Decree on the

Pastoral Office of Bishops, no. 38). It did not propose, however, that Eastern bishops outside the traditional patriarchal territory be dependent upon the Latin bishops or hierarchy.

4. Prior to the Council, the Eastern Catholic Churches had been obliged, as a condition for communion with the Holy Roman See and contrary to our rights and traditions to seek Roman confirmation for the election of bishops. The Council corrected this. The naming of bishops within the patriarchal territory is explicitly acknowledged as belonging to the Patriarch with his Synod. Neither consultation nor confirmation by the Roman Pontiff is required, although the Pope has the right, 'in individual cases', to intervene (Decree on the Eastern Catholic Churches, no. 9). It is this right that is now asserted by your Patriarch and Synod.

The law and tradition of the Latin Church, at least in modern times, is that the Pope should name the bishops. The right of others to elect bishops, although nominally recognized in the Latin Code of Canon Law, has gradually disappeared. This has been a source of confusion for Eastern Catholics living among Latins, but it cannot be too strongly insisted that Eastern bishops should not be named by the Pope, even though he retains the right to intervene in particular cases by way of exception.

5. Since the Council so often tells us Eastern Catholics to observe our traditional discipline, it has been properly urged that the Patriarch and Synod should move unilaterally, establish an eparchy for the United States, and designate its bishop in accord with our canon law. This is in all cases to be preferred to the Latin canon law which, as the Council reminded us, should not be followed to the disadvantage of our own usages.

This is a strong argument, especially because we must honestly and candidly state that the Roman Curia has taken no steps at all – and has not encouraged us to take any steps – to implement the 1964 Decree on the Eastern Catholic Churches.

It is nothing less than scandalous that this decree, alone among the decisions of the Council, has remained without implementation over these several years. For example, the Roman Curia, or at least the Congregation for the Eastern Churches, still takes for granted that the Eastern Catholic Churches are simply bound by the Code of Canon Law for the Eastern Churches, although this is often contrary to our traditional discipline which the Council decreed should be retained or restored. How can we expect our Orthodox brethren to look upon us with respect if the clear intention of the Second Vatican Council is ignored as have so many Papal promises to Eastern Churches in the past.

Perhaps we have been too patient with this delay, this opposition to the Council's will. It is now evident that, if the Eastern Catholic Churches are to be governed by their own discipline, they should enact or recover their own law. This, it should be added, is itself in accord with the principle of subsidiary recognized by the Council. It is not contrary in any way to the will or intent of Pope Paul VI, however much it may conflict with the views of the Congregation for the Eastern Churches.

6. The application of this principle to the appointment of a successor to Bishop Najmy needs also be mentioned. In October, 1966 the Melkite Church in the United States was established, exceptionally and as a compromise or expedient, in the form of an apostolic exarchate. This means simply that the bishop is a vicar of the Pope, like the vicar in missionary territories.

In some ways this action was an affront to the ancient Melkite Church, especially as the Roman Pontiff has been removing the Latin vicars in the new Churches of Africa so that the traditional hierarchy could be established. Nevertheless, although the efforts of the Patriarch and Synod over many years were somehow frustrated by the 1966 decision <appointment of Bishop Justin Najmy>, it seemed more important to take some step toward the proper canonical jurisdiction of an eparchy or, in Latin terminology, diocese.

Because of this Roman intervention in 1966, we have hesitated to act unilaterally. Our communion with the Pope – in spite of historical and contemporary violations of our rights by the Pope's Curia – is more important as a bond of faith and love than the assertion of rights.

Thus the Patriarch and Synod have entered into negotiations with the representatives of the Pope for many months. A compromise was reached to the effect that *for this time only*<sup>20</sup> the choice of a bishop would be made by the Roman See from among three names designated, after consultation with the clergy and people, by the Patriarch and his Synod. In the future, it was agreed the canonical norms affecting the Eastern Churches would be acknowledged and respected.

As a part of the same negotiations, the Roman See agreed that the status of exarchate would be changed to that of eparchy within six months.

These undertaking by the Roman See must be honored if the Melkite Church is to prosper or even to survive in the United States. We are the first to acknowledge the role of the Roman See among the Churches as supreme arbiter and ultimate recourse. We recognize that, in exceptional cases and for cause, the Roman Church has the right to intervene even in the ordinary affairs of particular Churches. Yet this must now become the exception rather than the rule. The promises of the Roman authorities give us hope for the future.

7. It is necessary to mention another element of confusion in the period of delay, namely, the sound proposal that the Melkite bishop for the United States should be an American. This is of course only reasonable: our Melkite Church does not rest on any single cultural, ethnic, or national basis. The Patriarch and Synod recognize the need for an American bishop and indeed for a bishop who is proposed by the consensus of clergy and people. It is necessary to point out, however, that of the few priests canonically attached to the Melkite Church in the United States, even

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20. Emphasis by the author.

in its present status as an exarchate – that is, apart from exempt religious – the number of American-born priests is very small.

For this reason the choice of Archbishop Tawil, our patriarchal vicar in Damascus, who has studied the whole situation of the Melkite Church in the United States, seemed appropriate. At the same time we can look forward – and indeed Archbishop Tawil looks forward – to the designation of an American Melkite bishop when the eparchy is properly constituted.

8. This occasion must be used to urge you to receive Archbishop Tawil, designated by both the Patriarchal Synod and the Roman See, as your true shepherd and father in the Lord.

9. Much of what has been said concerns matters of church order and governance, the church discipline which expresses outwardly the inner communion of faith and love which is the Church of Christ.

Far more important than legitimate church order are the reasons for the preservation of our Melkite Church and rite, especially at this moment when the Latin Church is beset by much confusion and indeed division.

The role of the Melkite Church, at the Second Vatican Council, under the leadership of the venerable Patriarch Maximos IV, was all out of proportion to our numbers. ...

The maintenance and development of these traditions is a hope for the whole Church of Christ. It is our Melkite and Eastern contribution to the Church of Christ.”

On May 8, 1977, Archbishop Joseph Tawil was enthroned as the first eparch. On this occasion, the Patriarch stressed:

“The communion of the Melkite Church with the See of Peter is a constant reminder that the responsibility of the Pope of Rome is not only to the Church in Rome but also to the preservation and protection of the Patriarchal Structure of the Church so highly praised by the Second Vatican Council. This also means that, as the local

Churches of the other Patriarchates manifest their communion with Rome, in turn, their Christian values, traditions, and even cultures must be respected.

This respect and scrupulous protection of the legitimate autonomy and subsidiarity rights of the Eastern Catholic Churches should be appreciated also by the Latin Bishops in each country. The changes in the discipline, practices, theology and liturgy of the western Latin Churches are sometimes thought to be overwhelming and disconcerting. This need not be if the Latin faithful see in their midst other Christians and Catholic traditions of equal or greater antiquity than their own, manifesting a diversity and flexibility in God's Church that is one of the Church's signs of vitality.'<sup>21</sup>

We have quoted the Melkite Patriarch at length as he is expressing the authentic Oriental conscience. It has been our opinion too that the contents of the above quoted declaration of the Congregation for the Oriental Churches would have legal force only for a certain time and that the new Code of Canon Law for the oriental churches would restore to the patriarchal synods their traditional rights also in appointing bishops.

This hope, however, seems to have proved false, as we may see from the oriental canon law draft of 1984 which perpetuates rather the contents of the above quoted declaration.<sup>22</sup> It prescribes that the patriarchal episcopal synod is to elect three *Candidates* for the episcopal service in favour of the oriental faithful living "outside the territories of their own church" and present their names to the Roman Pontiff for nomination in each individual case.

The same paper says that the oriental hierarchs outside the territories of the patriarchal church are to be invited to the reunions of the episcopal synods where they enjoy all the rights and obligations, unless particular law is limiting their rights (c. 125 § 1).

In liturgical matters, prescriptions enacted by the patriarchal episcopal synod and promulgated by the patriarch have

21. Published in *Sophia*, a magazine edited by the eparchy of Newton, MA, U. S. A., in its May-June 1977 issue.

22. Cf. *Nuntia No*, 19, 47, c. 124.



force of law *everywhere in the world*, while disciplinary prescriptions pertain as such only to the patriarchal territory (c. 125 § 2). Outside the patriarchal territory, they are binding only after approval by the Roman pontiff; the oriental hierarchs outside the patriarchal territory have, however, the right to attribute the synodal laws and decisions by force of law as far as this is within their competence (c. 125 § 3).

From all that has been said above we may realize that "patriarchal church" is on the one hand territorial and, in certain respects, particularly in the field of liturgy, supra-territorial. Although the patriarch's jurisdiction outside his territory is limited in the sense that it is to be exercised jointly, i. e. with the approval of the Roman pontiff, his rights and obligations in regard to the clergy of his whole church (c. 51 § 1) cannot be denied. There are not two or three individual churches within and outside the patriarchal territory, but *each patriarchal (archiepiscopal) church is one*. This oneness is also expressed by the obligation of all the bishops and other clergy to commemorate the patriarch immediately after the Roman pontiff in all divine services (c. 59).

We do not hide our disappointment regarding all the above mentioned limitations. Could not a compromise of the western and eastern views be found by saying that the patriarchs and their synods in using their traditional rights for electing bishops and establishing eparchies outside the patriarchal territory, act "on behalf and in the name of the Roman pontiff", supreme primate of the universal church? The present legal dispositions make it appear as if the Patriarch of the West reserved for himself exclusive territorial jurisdiction! Would not other Roman Catholic hierarchies try to emulate him?

*8. All the patriarchs of the eastern churches are equal in respect to the patriarchal dignity, though some of them are of later than others, without prejudice to the precedence of honour legitimately established among them.*<sup>10</sup>

10. In ecumenical synods: Nic. I, c. 6; Constantinople I, c. 3; Constant. IV, c. 21; Lateran IV, c. 5; Florence, Decree for the Greek, July 6, 1439, § 9. Cf. Pius XII, *Motu proprio cleri saucitatis*, June 2, 1957, c. 219, etc.

This short article deals with the rank and order of precedence among the oriental patriarchs. It does not speak of major or minor patriarchs, as canonists used to do previously. But it refers to the order of precedence as established by the ancient ecumenical synods attributing to the patriarch of the West (ancient Rome) the first place, that of Constantinople the second, that of Alexandria the third, that of Antioch the fourth and that of Jerusalem the fifth place. Hence the patriarchs of the apostolic sees situated in the ancient Roman empire precede those of the sees outside. This order of precedence is an honorary one. In regard to the patriarchal dignity and the patriarchal rights, all the patriarchs are equal. The oriental canon law draft of 1984 approves this (c. 28 § 2). The precedence among the other patriarchs is determined by the antiquity of the respective sees (c. 28 § 3).

Since there is no patriarch of Constantinople in the catholic communion who would rival the orthodox one, at present the Coptic patriarch of Alexandria occupies the second place after the Roman pontiff. This makes it evident that the rite of the titular of a patriarchal see in no criterion.

If there are more than one titular of a patriarchal see, as is the case with Antioch where there are three catholic patriarchs, the titulars follow one another according to the terms of their election.

Neither the text of the council nor of the draft mentioned speak of patriarchs who are also cardinals. Pope Paul VI as well as Pope John Paul II have appointed patriarchs of Antioch and of Alexandria cardinals (who, at present, are dead or out of office). But since the cardinalate is an institution of the Church of the Occident, perceptive patriarchs did not at all accept this "dignity" with enthusiasm. The cardinalate is not an elevation in rank for those who hold the top rank in the hierarchical structure of the universal church, even if they are made cardinal-bishops without a titular church in the Roman metropolitan province or in Rome itself but with the title of their patriarchal church. We refer, in this context, to the memorandum of the Melkite synod of 1963<sup>23</sup> and also to our study of 1965<sup>24</sup>. It is

23. Cf. *L'Eglise Grecque Melkite au Concile: Discours et Notes du Patriarche Maximos IV et des Prelats de son Eglise au Concile oecumenique Vatican II*, Beirut 1967, 155-175.

24. Cf. J. Madey, "Papst, Patriarchen, Kardinale: Überlegungen enzeium

therefore good that the draft does not mention the cardinalate. If, in the past, oriental patriarchs were 'elevated' to the cardinalate to enable them to participate in the election of the Bishop of Rome and supreme pastor of the universal church, this aim could also be achieved, if the patriarchs were ipso facto considered members of the electoral body. In fact the then apostolic administrator of the Coptic patriarchate, Amba Andraos Ghattas (now Patriarch Stephanos II) has proposed this again recently in his intervention of November 27, 1985 at the Synod of Bishops.

There is also no mention of any precedence of representatives of the Roman pontiff over patriarchs. The legates of the Roman pontiff representing him for certain functions will enjoy those privileges they will receive for each individual case (see the pertinent canons 362-367 of the Roman Catholic Code of Canon Law).

What is of importance is c. 29 of the draft stating that every patriarch has precedence over all the other patriarchs, even of more important sees, in the churches and divine services of his own rite.

*9. According to the most ancient tradition of the church, special honour is due to the patriarchs of the eastern churches, since each presides over his patriarchate as father and head.*

*This Holy Synod, therefore, enacts that their rights and privileges be restored in accordance with the ancient traditions of each church and the decrees of the ecumenical synods.<sup>11</sup>*

*The rights and privileges are those which were in force at the time of union between East and West, although they might be somewhat adapted to present conditions.*

11. Cf. above, ann. 8.

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aktuellen Problem': *Begegnung* 20 (Cologne 1965) 188-191; id., "Papes, Patriarches et Cardinaux: Reflexions et questions sur un probleme actuel": *Bulletin de la paroisse Grecque-Catholique Saint Julien-le-Pauvre*, Paris, 'Pentecote-October 1965, 19-26. - It should be added that Pope John Paul II, although incorporating the Ukrainian major archbishop into the rank of cardinal-pres-byters of the Holy Roman Church, has given him, as his titular church, his own Roman cathedral S. Sofia a Via Boccea!

*The patriarchs with their synods are the highest authority for all the affairs of the patriarchate, including the right to establish new eparchies and to appoint bishops of their rite within the boundaries of the patriarchal territory, without prejudice to the inalienable right of the Roman pontiff to intervene in individual cases.*

In the first paragraph, the Council confirms that the patriarchs are the inheritors of the most ancient tradition of the church. The sources as laid down in the volumes of the "Fonti", systematic collections of the traditions of the different individual churches of the East, offer us an unequivocal evidence of this fact. Special honour is therefore due to the patriarchs, but not only for this reason: They are also the fathers and heads of their churches.

But how is this special honour due to the father and head of an individual church to be understood? It is certainly not enough to attribute to a patriarch different titles of vain glory. The greatest honour of a patriarch is to render the church the greatest service. This is the reason why he enjoys his rights, privileges and responsibilities.

The West has not always understood what an oriental patriarch is. Only in this century, have new reflections and new insights brought forth a new comprehension of the traditional role of the patriarchs. Roman centralisation has been the obstacle to a correct evaluation of the large autonomy of the oriental churches.

"Of course, in the West there were never patriarchates – with the exception of Rome – in the proper sense, but there were largely autonomous particular churches as e. g. in Africa, France and Spain. But there is a very essential difference between East and West which ought not to be overlooked: In the West, the development was a slow and organic one and was taken without any great concussion. In the East, however, the catholic patriarchates which got their shape since the 16th century had to face suddenly and abruptly a situation which they never had known, namely the strong central authority of Rome which wished to rule over the East in the same way as it ruled over the West. This is quite understandable from the Roman

point of view, and there is no conscious injury of the East. We may not demand from the Roman central government of the church of the 16th or 17th century a historical thinking, as we know it today....

From the perspective of our time, Rome's attitude towards the Christian East during the past centuries necessarily will appear erroneous in many aspects. The experience of centuries which we now possess, permits us today to see things in a different light than those who, as children of their time, had to approach the problems without this experience. The management of the affairs of the church is entrusted to men who can err in the solving of practical questions. The true greatness of the church lays in the fact that God's spirit leads her to his goals in spite of all human weakness. The undeniable shortcomings of representatives of the western church in spite of their good will, which we are forced to admit, in the course of the centuries of the contact with the Christian East, are still felt as a burden in the relationship of Rome with the eastern church, and they explain in part the deeprooted suspicion which the separated eastern churches nurture towards the Holy See and all that is occidental. The first condition in the endeavours for reunion is to dismantle this suspicion. Unreserved frankness and sincerity is needed in the representantion of the past and its blunders."<sup>25</sup>

In the West, there has been and still is the latent temptation to neutralize the patriarchal rights by making their acts and decisions, especially if these are considered to be of major importance, dependent on the 'assent' of either the Roman pontiff or 'the Holy See' (by which, according to the Roman Catholic CIC, c. 361, is meant not only the Pope, but also the Secretariat of State, the Counsel for the Public Affairs of the Church, and the other institutions of the Roman Curia). There are traces of this tendency even in the title III on "The Patriarchal Churches" of the 1984 draft.

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25. W. de Vries. *Rom und die Patriarchate des Ostens* (= *Orbis Academicus. Problemgeschichten der Wissenschaft in Dokumenten und Darstellungen*), Freiburg-Munich 1963, 3f. We owe the translation of the second paragraph to V. J. Pospishil, *Orientalium Ecclesiarum: The Decree on the Eastern Catholic Churches of the II Council of Vatican 31f.*

We do not wish to deal here with similar things touching the non-Catholic oriental churches, e.g. their dependence on state authorities, which sometimes go even farther.

The council Vatican II, wishing to avoid all ambiguity of understanding, emphasized, rather it prescribed, that the rights and privileges of the ancient patriarchs be restored according to the *ancient traditions* of each church and the ecumenical synods. This paragraph explicitly expresses an obligation which is addressed not only to the Roman Holy See but also to the oriental patriarchs themselves. They, i.e. the oriental churches, have to study their own sources, often fallen into oblivion, in order to become conscious of their rank in the church, "this means, of their rôle, their rights and obligations, of what they ought to be for the good of the church, and especially for the good of ecumenism. If the Oriental patriarchs themselves are not conscious of what they are, they have to bear the consequences if Rome is not treating them accordingly. The revalidation of the patriarchate is, in the first instance, the task of the Orientals themselves"<sup>26</sup>.

Indeed, many Orientals have lost this consciousness because of their western formation. They have established themselves comfortably in "uniatism", a hybrid, neither western nor eastern, way of life, so that they are neither an enrichment for western nor eastern christianity.<sup>27</sup>

The ancient traditions of the different churches of the East may differ in the one or other point, but there is no doubt a large common basis, as we can gather from the collections of sources, because the legislation of the early councils, local and ecumenical, had been widely accepted, to some extent even by those churches which eventually have separated from the church in the Roman empire and developed autonomously. It is, therefore, indeed an erroneous way to cling exclusively to Roman decisions of the past, of the post-Tridentine era or to those of the latinizing synods held in the 19th and early 20th centuries

26. N. Edelby-I. Dick, *Les Eglises Orientales Catholiques* 352.

27. Cf. E. Zoghby, *Uniatisme et Oecumenisme*, Cairo 1963; M. Geday, "Uniatisme et Union": *Le Lien* 29/4 (1964) 1-40; E. Zoghby, *Tous Schismatiques?*, Beirut 1983 (in German: *(Den Zerrissenen Rock flicken...: Wie lange wollen Katholiken und Orthodoxe noch warten?*, Paderborn 1984).

and apply them to the Chaldeans, Syrians, Copts and Armenians.

Vatican II does not enter into details of legislation; but it gives general directions paving the way for correcting the errors of the past, also in regard to the patriarchal rights and privileges, *those existing at the time of union between East and West*. Although 'the time of union' is connotes different periods for the churches of the Byzantine and the other ecclesial traditions, it is certain that, at that time,

a) Roman primacy had coexisted with the large internal canonical autonomy of the oriental patriarchs who.

b) ruled over their respective churches enjoying the same powers that the Roman pontiff, as patriarch of the Occident had possessed ruling over the western church.

Since the churches of the East are no museum pieces, but *living realities*, the rights and privileges may be somewhat adapted to present conditions. This adaptation is an organic process; it is not synonymous with diminution. The council did certainly not have the intention to diminish the patriarchal rights and privileges in the direction of the above mentioned latinizing synods or of the obsolete legislation of the *motu proprio* 'Cleri sanctitati'. With regret, we have to state that the draft of 1984 does not fully come up to the expectations of the council. It reflects rather the ideal of Roman centralization. We only can hope that the definitive text of the oriental canon law will do away with all the defects contained in the draft text.

The final paragraph of this article of the decree speaks of the highest authority of a patriarchal church which is held by the patriarch *with* his synod. In fact, the government of the eastern churches is synodal, not monarchical. This acknowledgement by the council represents a considerable progree vis-à-vis the legislation of 'Cleri sanctitati' where the canons on the synod appear rather separated from those on the patriarchs. In the 1984 draft, the canons on "The Synod of Bishops of a Patriarchal Church" are rightly placed immediately after those on the patriarchs and before those on the patriarchal curia. It is this Holy Synod whose members elect the patriarch. The election of the patriarch is one of the synod's most essential rights (*not* privileges). We find it rather strange that in the quoted draft,

c. 44 is going even beyond the contents of c. 235 § 2 of 'Cleri sanctitati' which reads as follows:

"If the one elected accepts, the synod shall proceed, according to the regulations of that Rite, to his proclamation and enthronement, provided he is a bishop, not excluding an elected or designated and duly confirmed bishop although he has not yet received the episcopal consecration..."<sup>28</sup>

Surprisingly, the draft text has "If the one elected accepts and is an ordained bishop, the synod will proceed, *after the Roman pontiff has been heard*, according to the liturgical prescriptions of his church, to his proclamation and enthronement; if, however, the elected one is a bishop already legitimately proclaimed but not yet ordained, the enthronement may take place only after the elected one has received the episcopal ordination" (c. 44 § 1).

Even if the latter part of this canon is correct, since there is no partition between ordination and jurisdiction in the East, the first part cannot be understood otherwise than as an attempt to reintroduce, through a back door, the *confirmation* by the Roman pontiff of 'Cleri sanctitati'. There is no other possibility of explanation, because *ecclesial communion* is the subject of c. 45 (rendering the contents of cc. 236 and 235 § 3 ≠ 2 of 'Cleri sanctitati').

Patriarch and synod are also entitled

- a) to establish new eparchies and
- b) to appoint bishops within the boundaries of the patriarchal territory. The council does not speak of any Roman confirmation, assent or any other limitation of their immediate rights. All this falls into the exclusive competence of the patriarch with his synod.

Looking into the draft text, one finds

- a) that the text of the commission does not depart in contents from c. 248 of 'Cleri sanctitati'. The commission has

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28. The English translation is due to V. J. Pospishil, *The Law on persons: Rites - persons in general - Clergy and Hierarchy - Monks and Religious - Laity* (= Code of Oriental Canon Law), Fordham City, Pa., 1960, 120.



presented a text, as if the decree on the Oriental Catholic Churches were not extant;

b) as mentioned above, the only limitation we can draw from the council text itself in regard to the election of bishops is that the patriarchs with their synods are entitled to exercise their rights only within the boundaries of the traditional patriarchal territory. It seems that the free election of bishops without any juridical interference of the Roman dicasteries is something shocking to the officials there.

A few months after the promulgation of our decree, some Greek – Melkite and Maronite eparchies became vacant, and the patriarchs concerned wished to act according to the council's decree and not the regulations of 'Cleri sanctitati'. The then Greek-Melkite Patriarch of Antioch, His Beatitude Maximos IV, duly informed Pope Paul VI about this intention in a letter dated April 8, 1965 which was accompanied by a "Note on the necessity of restoring the free election of bishops in the oriental churches".<sup>29</sup> There the fact was emphasized that only under Pope Benedict XV, on the initiative of the Oriental Congregation, the Vatican's official *Acta Apostolicae Sedis* started publishing the names of the bishops elected canonically by the Greek-Melkite and Maronite patriarchal synods, and it was said there that the Pope recognised the election as valid (*electionem ratam habuit*); in regard to the other patriarchal churches subject to the latinizing synods mentioned above, they were obliged to ask papal confirmation for each election, and the AAS expressly mentioned this saying that the Roman pontiff has confirmed it (*electionem confirmavit*).<sup>30</sup>

An intensive debate began. The Secretariat of State trying to dispel the objections, wrote to the Greek-Melkite patriarch on July 16, 1965 stating i. a. that the Roman intervention in the episcopal elections had always been advantageous for the oriental churches and that Rome ought not to be deprived of the right of exercising a certain discrete control in these elections which had brought forth excellent results in the past.

29. The full text of this note is reproduced in its original French version by N. Edelby-I. Dick, *op. c.* 362-364.

30. On this issue, cf. A. Coussa, *Epitome praelection da jure ecclesiastico orientali*, Rome 1948, I 297f. (n° 296).

On January 18, 1966, the Greek-Melkite Holy Synod of Antioch addressed a letter to the then prefect of the Congregation for the Oriental Churches which is worth rendering here:

“1. The Synod cannot, neither lawfully nor in conscience, but keep to article 9 of the decree of the ecumenical council Vatican II on the Oriental Catholic Churches which is rendering these churches their full liberty in the episcopal elections which they were formally enjoying. This is why the Synod is not disposed to express, concerning the procedure of elections, an opinion which could be interpreted as if we were renouncing a right recognised to us by the ecumenical council.

2. Since the patriarch is obliged, in virtue of his office, to consult the synod before presenting someone's candidature for episcopal election, it is a matter of course that he also consults the Holy Roman See provided this consultation is not considered as a renunciation of our rights or as an acknowledgement of a new right to others.

3. The procedure of consultation, as indicated below, must not be considered as an obligatory juridical norm to be inserted in the Code, but as a practical measure of pastoral order.

This is now the practical procedure of the pre-electoral consultation:

a) the patriarch writes to the Holy Roman See in order to present, at an opportune time, a list containing the names of priests who seem to be worthy to be the candidates of future episcopal elections;

b) this presentation of names has not the aim of obtaining the approval or confirmation of future candidates. Its aim is but one of information to allow the Roman pontiff to intervene in each election, if he deems it opportune, as the council Vatican II says (Decree on the Oriental Catholic Churches, 9);

c) the list presented by the patriarch can be augmented by new names, or diminished, according to the circumstances of time and persons and the needs of the church;

d) the names in this list which will meet with a veto by the Holy Roman See, will be the object of explanation or definitely excluded. The other names can be presented by the patriarch to the electoral synod as candidates for episcopal elections.

And as soon as they are elected, they can be without any other previous notice, proclaimed bishops;

e) by deference, however, to the Holy Roman See, the first notification will be made to the Pope through the mediation of his local representative.’<sup>31</sup>

The issue remained a subject of discussion till June 22, 1966, when the Congregation for the Oriental Churches wrote to Patriarch Maximos IV:

“The application of the conciliar norm, despite the diversity of responses received, must be identical for all the patriarches of the ‘Oriental Catholic Churches’. It has retained that it could be executed in the following way: the patriarchs knowing well their religious and secular clergymen who are enjoying highest esteem in their clergy, as possible episcopal candidates, or having the intention to create new eparchies, ask, at an opportune time and confidentially, the Holy See whether it has to make some objection in regard to the candidates or a certain candidate or to the opportunity of a new eparchy, allowing the Holy See the necessary time for its answer which will be given with that rapidity required by the case.

This procedure has the advantage to allow the Holy See to accord then immediately its confidence and adhesion to the free decisions of the patriarchs and their synods; it appears wholly acceptable, since it does not bear and does not intend to bear any prejudice to any right or privilege. This ‘mode of procedure’ be applied before the reunion of the synods; it is more convenient and more secure as, on the one hand, it gives the Holy See more time to express

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31. The original French text is given by N. Edelby - I. Dick, *op. c.* 366f. This work describes the discussion of this issue in every detail, pp. 361-370.

its thought and, on the other hand, it avoids the difficulties and the scandals which could arise from the eventual divergence of opinions on the part of the Holy See.

Suppose, under the pressure of circumstances, synodal decisions regarding the nomination of new bishops not brought to the knowledge <of the Holy See> in advance, as was said above, or the creation of new eparchies would have been brought to the knowledge of the Holy See later, i. e. that they had been canonically decided, an opportune time would have to be given to the Holy See to express its opinion.”<sup>32</sup>

It is easy to gather that this statement of the Congregation for the Oriental Churches is not fully in accordance with the declarations of our decree.

The draft of 1984 speaks of the episcopal candidate in c. 150 § 3. It is the right of the synod to establish lists of episcopal candidates for which the patriarch is to ask the assent of the Roman pontiff. C. 152. § 1 says that if one whose name figured in the list which had got the assent of the Roman pontiff was legitimately elected, the Holy See is to be informed of his acceptance of the election and of the date of his episcopal proclamation. Why this delay? – If the elected one’s name did not figure in the list which had already received the Roman pontiff’s assent, the pope is to be informed of the election and his assent is to be solicited (c. 153 § 1); only after having obtained papal assent, the patriarch is to inform the elected one of his election (c. 153 § 2).

We do not hide our surprise. We strongly doubt if the commission for the recodification of the oriental canon law is rendering here what the council meant by saying that the patriarchs with their synods are the superior authority for all the affairs of the patriarchate. This regulation has nothing to do with the ancient traditions of the oriental churches at the time of union which have to be restored!

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32. We translated this document from the French, as published in N. Edelby – I. Dick, *op. c.* 369. Since the correspondence between the Greek-Melkite Patriarchate and the Roman Holy See is normally conducted in French, we suppose that this is the original text.

There is no doubt that, in the Catholic Church, the Roman pontiff, as supreme pastor, has the right of intervention, but, if the pope can intervene in each individual case, he is not obliged to intervene always. Intervention is at any time an exception and not the rule itself. Possession of a right and its use are two different things. One cannot say that the pope's authority is bound to prevent the patriarchs with their synod from exercising their rights. On the contrary, the patriarchal churches are obliged to rule themselves. Consequently everything pertaining to these churches ought to be also in the full and exclusive competence of the legitimate authority, that means the patriarchs with their respective synods.

### The Major Archbishops

*10. What has been said concerning patriarchs applies also, in accordance with the norm of law, to major archbishops who preside over the whole of some individual church or rite.*<sup>12</sup>

The term "Archbishop major" was introduced into canonical parlance only recently in order to distinguish him from other prelates enjoying archepiscopal dignity. We do not find it in the sources of canon law.

Originally the archepiscopal title was that of the hierarchs who eventually were made patriarchs of the five most important sees in the Roman empire and of the primatial sees of the Syro-Oriental and Armenian churches respectively.

Since the time of the third ecumenical synod of Ephesus, the church of the island of Cyprus, which nominally, had been dependent on the church of Antioch, has enjoyed perfect autonomy in regard to the patriarchal churches. This perfect autonomy has been later called, *autocephaly*. Having obtained its independence by the council, emperor Justinian, in his Novella 11, approved this decision attributing to the *Archbishop of Nea Justiniana archepiscopal and metropolitan rights* as well as imperial

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12 Cf. Syn. Ephes. c. 8; Clement VIII, *Decret Romanum Pontificem*, February 23, 1596; Pius VII, Apostolic Letter *In universalis Ecclesiae*, February 22, 1807; Pius XII, *Motu proprio Cleri sanctitati*, June 2, 1957 cc. 324-329; Council of Carthage, 419, c. 17.

privileges.<sup>33</sup> Despite the fact that the protohierarchs of the church of Cyprus, in deference to the five ancient patriarchal sees, never took for themselves the title of patriarch, there is no difference regarding their rights and authority.

The archbishop of Cyprus is elected by the Holy Synod of his comprovincial bishops.<sup>34</sup> He communicates his election to the other heads of the individual churches with which his church is in communion, asking from their part *ecclesiastical communion*; he is not in need of obtaining *the confirmation* of his election.

Since the early 19th century, when the number of autocephalous churches began to increase, some protohierarchs eventually adopted either the patriarchal title or that of archbishops or simply metropolitans. The title, however, has no relevance in regard to their rights and authority, but only to their rank in the order of precedence. So e.g. the Archbishop of Athens and the Metropolitan of Warsaw are heads of the churches of Greece and Poland respectively.

Other local churches headed by archbishops have remained, however, in the canonical dependence of their mother churches or under the nominal tutelage of the ecumenical patriarchate. In the Eastern Orthodox Churches, this is the case with the semi-autonomous Church of Crete whose archbishop is elected by the synod of Constantinople and enthroned by the ecumenical patriarch<sup>35</sup> and the autonomous Church of Finland whose episcopal elections receive confirmation from the ecumenical throne.

In the past, the Melkite patriarch established, outside the boundaries of the traditional patriarchal territory, prelates with a large authority called "catholicoi"; and so did also the Syrian

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33. Cf. J. Madey, *Le Patriarcat Ukrainien: Vers la perfection de l'état juridique actuel* (=Opera Theologicae Societatis Scientificae Ucrainorum, 19), Rome 1971, 25.

34. Synod in Trullo, c. 39: P.-P. Joanno, *Discipline generale antique (IIe-IXe s.): t. I, I Les canons des conciles oecumeniques* (=Pontificia Commissione per la redazione del Codice di Diritto Canonico Orientale, Fonti, fascicolo IX), Grottaferrate (Rome) 1962, 173.

35. Cf. A. Proc, *Yearbook of the Orthodox Church: 1978 Edition*, Munich 1978, 29.

patriarchates of Antioch. In spite of the fact that these prelates, called "catholicos" or mapryōnō, enjoyed supra-episcopal authority, they did not become fathers and heads of an individual church ("sui iuris"), but only presided over a part of an individual church.<sup>36</sup>

The status of some other Eastern Orthodox Churches which received their autocephaly unilaterally from the patriarchate, of Moscow, without the interference of the ecumenical patriarchate, has remained a subject of discussion. This refers to the churches of Georgia, Czechoslovakia, Albania and the Orthodox Church in America. This issue awaits a solution by the future Great and Holy Council of the Orthodox Church under preparation for the past two decades.

Our article considers exclusively those Catholic churches of oriental tradition whose protohierarchs are heads of *an entire church or rite*. Vatican II does not specify that he *must* have a *supra-metropolitan* authority like a patriarch. In some of the present, Orthodox as well as Catholic, patriarchates, the metropolitan authority in the proper sense is executed rather by the patriarchs than by those who continue to hold the traditional metropolitan title. The archbishop major, however, *may* have supra-metropolitan authority either within the archepiscopal territory or outside it, as is the case, in the Catholic communion, with the Ukrainian archbishop of Lwiw. The Holy See of Rome has officially acknowledged him archbishop major (December 23, 1964).<sup>37</sup> H. Chimy is inclined to attribute this position also to the head of the Romanian Catholic Church which is at present denied the right of existence by both the Romanian communist state and the Romanian Orthodox Church, the Metropolitan of Făgaraș and Alba Julia.<sup>38</sup>

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36. Cf. N. Edelby, "Note sur le catholicosat de Romagyris": *Proche-Orient chretien* 2 (1952) 39-46; J. Nasrallah, "L'Église melchite en Iraq, en Perse et dans l'Asie centrale": *ibid.* 26 (1976) 16-33, 319-353. See also "Maphrian"; J. Assfalg-P. Kruger, *Kleines Wörterbuch des Christlichen Orients*, Wiesbaden 1975, 251; "Katholikos": *ibid.* 162-164.

37. *Acta Apostolicae Sedis* 1964, 214

38. C.F.H. Chimy, *De Figura Iuridica Archiepiscopi Maiorisa in iure canonico orientali vigenit* Rome, 1968 33.

When the late Archbishop Major Josyf (Slipyj), using his authority, fixed the "vacatio legis" for the regulations concerning mixed marriages in his church, the Roman Catholic archbishop of Detroit, Michigan, asked the Roman Holy See whether this decision had been legal. The Apostolic Delegate answered on November 22, 1966, as follows:

"In reply to Your Excellency's inquiry, I have learned that the Decree for the Eastern Churches began to oblige the Ruthenians of the United States on January 22, 1965 <date fixed by Pope Paul VI>. It began to oblige the Ukrainians of the United States on April 7, 1965 <date fixed by His Beatitude the Archbishop Major">. <sup>39</sup>

At last, Pope John Paul II agreed that the Ukrainian hierarchy which had been so far organized in the form of an episcopal conference (following the Roman Catholic model) could form a synod of its own, although it consists only of the archbishop major of Lwów residing in Rome in exile and hierarchs outside the original territory of the archepiscopate who come under the category of 'attached' (aggregati) hierarchs (cf. *OE* 7). Being a synod outside the territory of the archepiscopate, pontifical assent has to be granted in advance before each reunion of the synod. <sup>40</sup>

We have dealt with this point at some length because the institution of major archbishop as the father and head of an entire individual church, like a patriarch, has been rather vaguely conceived by many Catholics including highest dignitaries.

Vatican II points out that everything said in our decree in regard to patriarchs, is valid also, *according to the norm of law*, concerning the major archbishop presiding over an entire church. The "norm of law" could not be that of *motu proprio* 'Cleri sanctitati', but of the new legislation to be codified after Vatican II. <sup>41</sup>

39. Apostolic Delegation, Washington, D.C., November 22, 1965, Prot. No. 1643 / 66.

40. Cf. the footnote in *Annuario Pontificio 1985*, Vatican City 1986, 982.

41. Cf. N. Edelby - I. Dick, *Les Eglises Orientales Catholiques* 370-372.

M. M. Wojnar, "Decree on the Oriental Catholic Churches": *The Jurist* 35 (1965) 203.



The draft text of 1984 referred to above takes the new situation into consideration. Regarding the archbishop major and his church we find here only four canons which indicate the differences between a patriarchal and an archepiscopal church.

What is most striking is, that the archbishop major, even if he is an ordained bishop has to ask the Roman pontiff to *confirm* his election, in a letter which he has to sign in person. Only on receipt of the confirmation, he may be proclaimed archbishop major and enthroned. Only after the enthronement is he allowed to execute his powers validly (c. 129 § 2 and § 3).

We may be allowed to ask why such a procedure is planned to form part of the new oriental code. Which is the basis of this envisaged canonical prescription? In our view, it is manifestly in contradiction to the tradition of the Christian East, as well as to the quoted c. 8 of the first council of Ephesus and to c. 39 of the council in Trullo (Constantinople, 691: it is also called 'Quinisextum' or 'Penthektē'). It is also in contradiction to the actual practice of the Orthodox churches which scrupulously observe their tradition. Must the Catholic Oriental Churches be treated worse because of their being in communion with the Church of Rome? Could not the archbishop major and his synod simply ask the Roman pontiff for granting ecclesial communion to the new head and father of the archepiscopal church? At the same time, they would communicate the election also to the other patriarchs of the Oriental Catholic Churches. This procedure would certainly be more in tune with the traditions to be restored and also with the ecumenical spirit laid down as one of the principles of the new codification by Pope Paul VI, when the commission for the recodification was established on June 10, 1972.<sup>42</sup> Every hint of distrust – or what could be interpreted as such – should be excluded from the oriental code of canon law.

According to the draft text (c. 130), the major archbishops obtain precedence of honour *immediately after the patriarchs*, observing among themselves the order of the age of the establishment of their churches.

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42. Cf. *Nuntia No. 1*, Vatican City 1975, 7.

The cardinals are not mentioned here either. But as major archbishops have been appointed cardinals in the recent past, we deem it necessary to make some observations on it. There is no logic in making oriental major archbishops cardinals in the rank of *Presbyters of the Holy Roman Church*, for that means incardinating them into the clergy of the local church of Rome and attributing to them churches which normally are administered by presbyters. As was said above, archbishops major, like patriarchs, are fathers and heads of their respective churches "sui iuris" and they ought to retain also the title of their archepiscopal see. While the former Ukrainian archbishop major Josyf had got the church San Atanasio as his presbyteral church, his successor, His Beatitude Ivan-Myroslav, was made cardinal-presbyter of his own Roman cathedral Santa Sofia, Via Boccea! This looks somehow like a compromise and it gives the strange impression that an archbishop major is made presbyter of his own cathedral. But why was he not made a *Cardinal of the Holy Church* instead of being appointed a cardinal of the Holy Roman Church? Being the head of the Ukrainian church, he enjoys the rights and authority of the ancient metropolitans of the church of Kiev which, at least under certain aspects, excelled even those of the present Orthodox and Catholic patriarchs.<sup>43</sup>

The council decree under consideration does not speak of other heads of individual churches, but since the draft text of 1984 allots to the *Metropolitan Churches sui iuris* a series of canons (cc. 131-143), we cannot shut our eyes in their regard.

From the oriental point of view, this part of the draft text is most disappointing, for it does not at all consider these churches as individual ones or "sui iuris", as the title indicates. In dealing with the archepiscopal churches "sui iuris" above, we have already shown that the Eastern Orthodox Churches do not make any difference between the churches headed by an archbishop (major) or by a metropolitan. Once a church has obtained

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43. Cf. P. P. Lozovei, *De Metropolitanum Kioviensium Potestate (988-1596)*, Rome 1962; I. I. Patrylo, *Archiepiscopi-Metropolitani Kievo-Halicienses attentis praescriptis M. P. "Cleri sanctitati"*, Rome 1962; E. Kaminskyj *De Potestate Metropolitanum Kioviensium-Haliciensium*, Rome 1969; J. Macey, *Le Patriarcat Ukainien...*, Rome 1971; see also N. D. Chubaty, *The History of Christianity in Rus, -Ukraine* (in Ukrainian), Rome-New York 1965.

its autocephaly, it enjoys all the rights of an individual church attributed by the canons of the ecumenical synods and the other commonly accepted canonical collections.

An individual church must have a father and head, be he a patriarch, an archbishop major or a metropolitan. But in the canons of the draft text, there is no mention of the metropolitan as father and head of his church. The metropolitan church is also deprived of a synod of bishops, instead it is to have an episcopal council which scarcely has any rights other than those of the bishops' conferences in the Roman Catholic Church. This is certainly a latinization. Every appointment of bishops is reserved to the Roman Pontiff, although the election of the metropolitan and his comprovincial bishops is one of the essential rights of the individual churches. The metropolitan has to ask the Roman pontiff to grant him not ecclesial communion, but the *pallium* like the Roman Catholic archbishops who are at the head of an ecclesiastical province, although every student of liturgy knows today that the western pallium has the same origin like the Byzantine rite *omophorion* the Syrian rite *ūrōrō rabbō'* the Armenian rite *emip'oron*, etc. which every bishop is using. Why must an Oriental metropolitan be imposed the western pallium "being the sign of metropolitan power"? Would not granting ecclesial communion or even "confirmation" of the election (as in the *semi-autonomous* or autonomous Orthodox churches) be sufficient?

Also the rights of the metropolitan in regard to the eparchies of his church are rather restricted. The only remarkable difference from the Roman Catholic CIC is that the metropolitan is to be commemorated by the hierarchs of his church according to the liturgical prescriptions (c. 134).

The *Indian Church of the Thomas Christians*, commonly known as the *Chaldeo-Malabar Church* because it is of Syro-Oriental tradition, does not seem to fit into any model of individual churches *sui iuris*; it is divided into two metropolitan churches of equal standing which have a restricted personal jurisdiction. in a small part of India; besides, there are eight eparchies outside this restricted territory attached to Roman Catholic metropolitan provinces. It is, therefore. not too much to say that the apostolic Indian Church is integrated into the

Roman Catholic jurisdictional system. This is quite an abnormal situation which must be remedied without further delay.

The Chaldeo-Malabar Church, although one of the most flourishing oriental churches, has no synod, but only an episcopal *conference*, and there is no legal basis for the membership of the hierarchs outside the two metropolitan provinces in this conference, as this would be the case, if there were a synod in the proper sense. Then art. 7, para 3, of this decree could be applied also to them.

One of the sad consequences of the lack of a common father and head for this venerable church is the manifest disunity in the episcopate itself, reflected in the canonical and liturgical disorder, this church is suffering from at the present time. A latinizing party in this Church, clinging to the past when this church was under Roman Catholic jurisdiction for about three hundred years, during which its clergy obtained an exclusively western training, is showing an openly hostile attitude towards their own Syro-Oriental patrimony and everything oriental in general, considering them as obsolete. They oppose every attempt at re-orientalization envisaged by the ecumenical council Vatican II and encouraged by the Holy Roman See including the Roman pontiff.<sup>44</sup>

This group of hierarchs and their followers in the Chaldeo-Malabar Church show also a manifest lack of any awareness of their ecclesial individuality. It may be asked what reason they are able to put forward for claiming an extension of their jurisdiction or even for their independent existence, if they are aping the Roman Catholic Church in India in almost everything, even in what has caused the present crisis in the latter!

### Erection of New Patriarchates

*11. Since the patriarchal institution in the oriental churches is the traditional form of government, the holy and ecumenical*

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44. See V. Pathikulangara, *Church and Celebration* (= Denha Services, 2), Kottayam 1984, 33-62; id., *Appendices to Church and Celebration*, Kottayam s. d. (1986).

*Synod earnestly desires that new patriarchates be erected where there is need. Their establishment is reserved either to the ecumenical council or to the Roman pontiff.*<sup>13</sup>

In closing this part of the decree, the council speaks of the possibility of establishing new patriarchates, because the patriarchal system of government is the traditional one in the oriental churches. This is a valid argument. Of course, the patriarchal title is not indispensable; what is indispensable is the patriarchal system of government. A church *sui iuris* can also be governed by an archbishop major or a metropolitan together with his respective episcopal synod. Each individual church ought to have, however, one common father and head, whatever title he may use. But, as already pointed out, the patriarchs are the summit of the hierarchy (Maximos IV), and therefore the patriarchal system of government ought to be applied to those individual churches which are fully developed, as e. g. the Ukrainian church, the Syro-Malankara, Ethiopian, the Chaldeo-Malabar and even the Ruthenian (Byzantine) churches.

The Ukrainian church, in spite of its centuries long sufferings, is today spread over all the continents and needs a spiritual and religious centre. Such a centre would be assured in the best way if its protohierarch were endowed with the patriarchal title. This need is rightly felt by many faithful, hierarchs not excluded, in the diaspora as well as in its home land (where this church can live only in the underground). Otherwise the Ukrainian church, like other oriental churches risks being submerged in the vast ocean of Roman Catholic christianity, and this is clearly against the intentions of Vatican II which ardently desires the preservation and development of the oriental churches whose patrimony constitutes an integral part of the catholicity and apostolicity of the Church of Christ. Moreover, the Ukrainian church has a historical right to be recognized as a patriarchal church, since its first hierarchs most probably were styled 'catholicos' (in the sense of autonomous hierarchs).

13. Synod of Carthage (419), cc. 17 and 54; of Chalcedon, 451, c. 12; St. Innocent I, letter *Et onus et honor*, ca. 415: "Nam quid sciscitaris" St. Nicholas I, letter *Ad consulta vestra*, November 13, 866: "A quo autem"; Innocent III, letter *Rex regum*, February 25, 1204; Leo XII, Ap. Const. *Petrus Apostolorum Princeps*, August 15, 1824; Leo XIII, Ap. Const. letter *Christi Domini*, 1895; Pius XII, Motu proprio *Cleri sanctitati*, June 2, 1957, c. 159.

The Syro-Malankara Church in India, the youngest individual church in the catholic communion, has had such a development, that its metropolia could be extended; a fourth eparchy, especially for the Nadar community in the southern part of the present metropolitan eparchy, appears an urgent need and its establishment ought not to be delayed any longer. One could think of the erection of other eparchies, too. If this church which is now a metropolitan church "sui iuris", were given at least the rank of catholicate, its ecumenical and missionary radiation would still increase. The same could be said in regard to the numerically smaller Ethiopian Catholic Church whose metropolitan was recently appointed a cardinal presbyter of the Holy Roman Church.

The Ruthenian church in the United States is now fully developed; in its country of origin which belongs to Carpatho-Ukraine, it works only in the underground and shares the fate of the Ukrainian Church. In the United States, its faithful are of different ethnic backgrounds. It should be asked why the eparchy of Prešov in Slovakia and the eparchy of Sts. Cyril and Methodius in Canada have been declared "Slovak" and thus separated from the Ruthenian church with whom they share a long history. It is said that the Ruthenian church in the United States is aspiring the status of an archepiscopate major.

As regards the Chaldeo-Malabar church in India, in its present situation, there can be serious doubts whether it is in a condition to be given a patriarchal system of government. The late spiritual leader, Professor Placid J. Podipara (+ 1985), once told the author that he was working to achieve this goal with all his energy, but that he felt the dilemma who of his countrymen would be able to fill the post of patriarch or archbishop major with genuine oriental conscience. In commenting on the previous article, we have drawn attention to the fact of the disunity in the hierarchy and to the latinizing movement in this church.

According to the principle of subsidiarity, the Roman pontiff is called to intervene with his supreme authority in the universal church. He could elevate this church into the rank of an archepiscopate major and appoint for the present time an apostolic administrator with the extended powers of the ancient *exarchos*. This prelate should be a truly oriental bishop. He could

be a metropolitan of the Chaldeo-Malabar church, but this is not a precondition. In exercising his office, he would act in the name and on behalf of the Roman pontiff. After a certain period, when the hierarchy, clergy, and faithful will be conscious enough of their ecclesial identity – we admit that a good part already is – , an episcopal synod could be erected as well as the traditional assembly called ‘Yogam’ in order to elect the protohierarch, archbishop major or patriarch. It is indeed a pity that this church, which is numerically one of the strongest oriental churches in communion with Rome, is in such a lamentable condition. It is no wonder that India is the latest and most backward country in applying the documents of the ecumenical synod of Vatican II regarding the Oriental Catholic Churches and Ecumenism.

We can only express our hope that the spirit of the council will finally triumph over all the obstacles that the eastern churches have to face at the present time.

## CHAPTER V

### THE DISCIPLINE OF THE SACRAMENTS

While the first part of our decree concentrates mainly on certain ecclesiological and canonical issues, the articles that follow deal with problems connected more with the practical life of the believers. This, however, does not exclude, their ecclesiological relevance.

At the same time, these articles presuppose an authentic canonical legislation reflecting the genuine oriental traditions, as one can easily grasp from the title itself which speaks of *discipline*.

*12. The Sacred Ecumenical Synod confirms, and praises the ancient discipline of the sacraments existing in the oriental churches, and likewise the practice in respect to their celebration*

*and administration. It ardently desires that, if circumstances warrant, this should be restored.*

We have divided the council text into two parts each containing a relevant statement.

(a) It is the ancient, *authentic* discipline of the sacraments together with their practice and administration which have developed organically in the oriental churches since the apostolic and post-apostolic times, that are confirmed and *praised* by the council fathers. If the council emphasized the *ancient* discipline, it tacitly, but not less clearly implied also a disapproval of certain practices which had crept in and are still in vogue in some of the oriental churches which, in course of time, had departed from their own respective discipline in order to assimilate or even imitate the practice of the western church. This cannot be regarded as an organic development, since it is based on an erroneous theological vision and not on the genuine tradition. The council's approval of the ancient discipline and practice of the oriental churches is general and should be binding in respect to *all* the sacraments, the Divine Liturgy not excluded.

(b) This is why the oriental discipline, according to the ardent desire of Vatican II, should be restored, if circumstances warrant. This appeal is addressed to almost all the oriental churches in communion with Rome, because they had all come under Roman Catholic influence, more or less, since the sixteenth century.<sup>1</sup> Their non-catholic, orthodox, counterparts had in fact the advantage of remaining free from this development. It is therefore the task of the Oriental Catholic Churches to study the best of their own ecclesial and liturgical sources in order to implement the desire of the council Vatican II.

It is a fact that some of the oriental catholic churches, owing to western influence, began to administer the Holy Eucharist to the laity exclusively under one species. e. g. the Maronite, Chaldeo-Malabar, Chaldean, etc., churches. But while this may be understandable regarding the past, particularly in the light of the Roman ecclesiology of the post-Tridentine era, its continuance after Vatican II smacks of brainwashing and a complete

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1. Cf. M. M. Wojnar, "The Decree on the Oriental Catholic Churches" 207.



loss of ecclesial consciousness, (The Roman Catholic Church is, at least, in particular cases, administering the Eucharist now under both species).

We find such a strange and obsolete attitude in the Eucharistic liturgy of the Chaldeo-Malabar Church, restored only a few years before the beginning of the council Vatican II. Those responsible for the edition of the *Qurbānā* (partly in Malayalam) deemed it necessary to add some rubrics (only in Malayalam) which somehow annihilated the success achieved in the restoration. There one can read the "recommendations" e. g. to abstain from incense in the daily divine liturgy, to administer communion generally under the species of the consecrated bread, etc.<sup>2</sup> Some years later, in 1968, a mutilated text of the divine liturgy of this church appeared containing still more latinizations.<sup>3</sup>

In the discussions of the commission for the codification of the oriental canon law, this tendency of having the existing latinizations approved, became again manifest in certain interventions of the organs of consultation, but finally all these backward-orientated objections were not accepted, and the commission emphasized in its explanations of the draft text that it would be faithful to the intention of the council demanding *the entire restoration* of the oriental traditions (cf. OE 6 and 12).<sup>4</sup>

### The Minister of Chrismation

*13. The established practice in respect to the minister of confirmation, as it was in force among the Orientals since the most ancient times shall be fully restored. Therefore priests can validly confer this sacrament using chrism blessed by a patriarch or bishop.*<sup>14</sup>

14. Cf. Innocent IV, letter *Sub catholicae*, March 6, 1254, § 3 ≠ 4; II Synod of Lyons, 1274 (profession of faith by Michael Palaeologus to Gregory X); Eugene IV, in council of Florence Const. *Exsulat Deo*, November 22, 1439, § 11; Clement VIII, instruction *Sanctissimis* August 31, 1595; Benedict XIV, const. *Etsi pastoralis*, May 26, 1742, § 2 ≠ 1, § 3 ≠ 1, etc.; Synod of Laodicea, 437/381, c. 48; Armenian synod of Sis, 1342; Maronite synod of Lebanon, 1736, part II ch. III ≠ 2; and other particular synods.

2. Cf. J. Madey, "The so-called Liturgical Reform in the Syro-Malabar Church" *Diakonia* 9 (1974) 141; id., *The particular oriental vocation of the Nazrani Church in communion with Rome*, Alleppy 1976, 133f.

3. Cf. J. Madey-G. Vavanikunnel, "A Reform of the restored Syro-Malabar Qurbana? A critical analysis": *Ostkirchliche Studien* 18 (1969) 172-181; see *The particular oriental vocation* 92-109.

4. See "Denua Recognitio dello Schema dei canoni sul Culto Divino e Sacramenti": *Nuntia No. 15*, Vatican City 1982, 23f.

As pointed out above, the intention of the council Vatican II has been the full restoration of the ancient discipline of the oriental churches. In this article, this is explicitly stated in respect of the sacrament which the West calls "confirmation", and the christian East in the different ecclesial traditions calls by several other appellations.

In the past, the dispute arose from the fact that the western church, estranged from the Orient, regarded this sacrament as being reserved exclusively to the bishop. Since this reservation was seen as essential, the practice of the eastern churches was not understood in its historical context. It seems the practice of the eastern churches which draws its origin from most ancient times, according to which the baptizing priest administers also chrismation, was scandalizing the western church to such an extent that continuous efforts were made to adapt the Orientals to the western understanding of "confirmation" as one of the episcopal prerogatives. Of course, the oriental churches do not deny the bishop the right to administer this sacrament, as he is the one who consecrates the chrism and is the first priest of the local Church.

The restrictive measures issued in this respect by the Roman authorities started in the 13th century, when Pope Innocent III reserved the administration of the sacrament of chrismation exclusively to the bishops of the Maronite Church of Antioch, and such instructions came into force in different oriental churches till the beginning of this century.<sup>5</sup>

But we have to realize that the council rightly admitted that these restrictions were groundless and did only harm to the oriental churches in communion with Rome which had been regarded more and more as exceptional rites. They even were a major obstacle to christian unity.

The insight that the oriental churches are not exceptions from the rule, but really sister churches of the Roman or western church, made the fathers consequently revoke and abrogate the restrictions of the past and accept the oriental practice as equivalent to that of the western church. Justice demanded the abolition of the latinizing prohibitions of the past and the

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5. Cf. M. M. Wojnar, "The Decree on the Oriental Catholic Churches" 209.

separation of chrismation from baptism. Now there is a strong appeal to those Orientals who still cling to these latinizations, to obey the council Vatican II and return to their authentic traditions.

The draft of the canons regarding the sacrament of chrismation has given up the Latin term "confirmation" as least fitting to render the oriental tradition, replacing it by *Chrismation with Holy Myron* (*Chrismatio sancti myri*); it leaves open the possibility of using "the unction with Holy Chrism", if this corresponds more to the tradition of a particular church. The canons also approve of the ancient practice that holy myron made of olives and other plants and aromas can be blessed only by a bishop without prejudice, however, to any particular law reserving this power to the patriarch (c. 28).<sup>6</sup>

The churches of the Christian East have always ascribed much importance to the consecration of holy myron. In the Eastern Orthodox Churches, there are but nine hierarchs entitled to consecrate it: the ecumenical patriarch of Constantinople from whom the autocephalous churches of Cyprus, of Greece, and of Bulgaria obtain it, the pope and patriarch of Alexandria, the patriarch of Antioch, the patriarch of Jerusalem, the patriarch of Moscow, the metropolitan of Kiev (Ukraine), the Catholicos-patriarch of Georgia, the patriarch of Serbia and the patriarch of Romania.

In the Oriental Orthodox Churches, in general, the myron is blessed by the patriarch or the maphrian of the East; only in exceptional cases, metropolitans and bishops can bless it.<sup>7</sup> Chrism or myron is not blessed every year, but rather according to its need.<sup>8</sup>

6. Cf. *Nuntia No. 15*, 24; V. J. Pospishil, *Orientalium Ecclesiarum* 37; M. M. Wojnar, *l. c.* 203f.

7. In the Ethiopian Orthodox Church the priest officiating at baptism, blesses the myron for each chrismation. "This is the chrism or oil of Balsam." See A. Wondmagegnehu-J. Motovu, *The Ethiopian Orthodox Church*, Addis Ababa 1970, 73. In the non-Catholic Syro-Oriental ("Assyrian") "Church of the East" which does not know the myron (chrism), the priest blesses the oil of anointment. Cf. K. A. Paul-G. Mooker, *The Liturgy of the Holy Apostles Adai and Mari together with the liturgies of Mar Theodorus and Mar Nestorius and the Order of Baptism*, Trichur 1967, 148-152.

8. Cf. J. Madey, *Le Patriarcat Ukrainien: Vers la perfection de l'etat juridique actuel* 63-66.

Obtaining myron from a patriarch (or from the metropolitan) is not to be understood as a sign of submission, but as a sign of communion with and veneration for a patriarchal church, as is proved by the practice of the autocephalous churches of Cyprus, Greece and Bulgaria.

The Oriental Catholic patriarchal churches have also reserved the right of consecrating myron to their patriarchs.

Would the communion of churches of common apostolic origin and tradition not be emphasized, if the Chaldeo-Malabar Church received the myron from the Syro-Oriental patriarch and the Syro-Malankara Church from the Syrian Patriarch of Antioch who are, in any case, the very first representatives of their liturgical life? The fear expressed by prelates of the Indian oriental churches that they would lose their ecclesial independence then, is certainly without foundation.

The minister of chrismation with holy myron is, in all the oriental churches, the priest. It does not matter whether the sacrament is administered together with baptism or not (c. 29). Chrismation has to be administered, however, together with baptism as a rule (c. 30 § 1). If, because of certain circumstances, e. g. absence of an oriental priest, baptism was conferred earlier, the minister of baptism (a Roman Catholic priest or, in an emergency, a deacon or another person) has to inform the local pastor of the baptized so as to note this fact into the records of baptism. Then the competent parish priest can administer chrismation as soon as this becomes possible (c. 30 § 2).

14. (a) *All oriental priests can confer this sacrament validly on all the faithful of any rite, including the Latin, either in conjunction with baptism or separately from it. They do this licitly, however, only if the regulations of law, both common and particular, are observed.*<sup>15</sup>

(b) *Priests of the Latin rite also, in accordance with the faculties they enjoy for the administration of this sacrament, validly*

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15. Cf. S. Congr. Holy Office, instr. to the bishop of Spis (1783); S. Congr. propaganda Fide (for the Copts), March 15, 1790,  $\neq$  XIII; Decree of October 6, 1863, C, a; S. Congr. oriental Church, May 1, 1948; S. Congr. Holy Office, reply of April 22, 1896 with the letter of May 19, 1896.

*administer it even to the faithful of the eastern churches, without prejudice to the rite observing for lawfulness the regulations of both the common and the particular law.*<sup>16</sup>

a) Those who had to comment on this article immediately after its promulgation, had some difficulties. While it was generally admitted that each oriental priest – there is no distinction of Catholic or orthodox priest – could confer this sacrament *validly*, the problem arose as to administering it also *licitly*.

So it was argued, for instance, that “particular pontifical law also prohibits the administration of this sacrament by priests of some Rites, including the Maronite Rite, the Italo-Albanian, and others but it no longer involves the validity of the sacrament... In general, the present < in force in 1965 > Oriental law should still be observed for lawfulness.<sup>9</sup> The author had certainly in mind the contents of the sources quoted in footnote 15 of the decree which, however, hardly reflect the oriental traditions. Another author comes to another conclusion:

“The council cancels the controversy. It grants the oriental priest the power to confirm faithful of whatever rite they are, even if they are Latins. But it maintains, for liceity, the following reserve: > if the regulations of law, both common and particular, are observed<. When Oriental individuals are concerned, the oriental priest can confer the holy chrism to them licitly, if he is entitled to baptize them licitly. If Latin individuals are concerned, the oriental priest who would be induced to abstain from confirming them; he could do this only in danger of death.<sup>10</sup>

A solution of this issue can be found in the 1982 draft text of the canons regarding divine worship and sacraments. The first para of c. 31 is identical with the first sentence of our article 14. In regard to liceity, it is said (c. 31 §3) that each priest is entitled to confer the sacrament of chrismation to the faithful

16. CIC < 1917 < c 782 § 4; S. Congr. Oriental Church, Decree “*de Sacramento Confirmationis administrando etiam fidelibus Orientalibus a presbyteris latini ritus, qui hoc indulto gaudent pro fidelibus sui ritus*”, May 1, 1948.

9. M. M. Wojnar, “The Decree on the Oriental Catholic Churches” 210f.

10. N. Edelby– I. Dick, *Les Eglises Orientales Catholiques* 490.

belonging to his own church *sui iuris*. If the faithful he baptizes belongs to another church *sui iuris*, he will confer chrismation to those who are his subjects as well as those he baptizes on another ground or in danger of death, without prejudice to conventions done in this respect by the churches concerned.

So, for instance, two churches *sui iuris* sharing in the same liturgical traditions, e. g. the Syrian and the Syro-Malankara Churches, may entitle each priest of both the churches to administer baptism with confirmation to their respective subjects; but such an agreement could also be made by churches of different liturgical traditions, e.g. the Greek Melkite and the Coptic Churches, in regard to their faithful living in the diaspora.

The new Roman Catholic CIC does not mention explicitly the possibility of oriental priests administering confirmation to Roman Catholic faithful, as the code of 1917 did in its c. 782 § 5 expressing a grave prohibition. In the first draft of the schema on divine worship and sacraments, a similar prohibition was made. According to this draft (c. 31 § 2), the oriental priest, although obliged to follow the rite of his own church, was forbidden to confer chrismation to a Roman Catholic child in conjunction with baptism in order to maintain the discipline of the baptized person.

In our commentary of 1972, we have asserted – and we still believe – that this procedure should be applied in the future:

“Eastern priests who... happen to baptize children of Latin parents, will confer Baptism and Confirmation simultaneously (because the rite of both the sacraments is one) and inform the Latin authority about it to avoid a second confirmation in accordance with the Latin practice.”<sup>11</sup>

If the oriental priest is to celebrate the sacraments according to the liturgical books of his own church, he cannot interrupt the rite which, for baptism and chrismation, is one whole. The spiritual conscience of the oriental faithful does not differ in this point, as Kyr Lutfi (Laham), now titular archbishop of Tarsus and patriarchal vicar in Jerusalem for the Melkite Greek Catholic community, points out:

11. J. Madey, “Vatican II’s Decree on the Eastern Catholic Churches and its ecumenical importance”: *Diakonia* 7 (1972) 238f.; see also id., *The particular Oriental vocation of the Nazrani Church* 55f.

“Very rarely, and only after theological reflection, have I thought of chrismation when administering the sacrament of baptism. I baptize, and of course chrimation (*the agion myron*), the sealing (*sphragis*) of the Holy Spirit belongs for me to baptism in the same way as the coming of the Holy Spirit belongs to the perfection and accomplishment of Christ’s work. Such is the structure of Economy. The faithful also have no different feeling and no other conviction. A priest who does not anoint the child after baptism immediately with the holy myron, is for a true orthodox Christian from among the people a heretic.”<sup>12</sup>

This conscience is expressed by Symeon the New Theologian in this simple sentence: “He who has not received the holy myron, he is not truly baptized.”<sup>13</sup>

The pneumatological character of the mystagogic sacraments is the reason *par excellence* on which the oriental tradition and also the conscience of the faithful of the oriental churches is based<sup>14</sup>. Why should this conscience be pressed into other structures of thinking?

Although the Chaldeo-Malabar Church was supposed to restore its sacramentary, after the restoration of the divine liturgy, there appeared a *Ritual of the Malabar Church* in Malayalam and with the imprimatur of the then hierarchy in office as late as in 1969, edited by the Syro-Malabar Liturgical Committee, whose chairman had been cardinal Joseph Parecattil, the then metropolitane of Ernakulam.

The latinizing spirit of this book is more than evident. Of course, baptism and chrismation are separated against tradition and the will of Vatican II and the Roman pontiffs<sup>15</sup>. Reviewing

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12. L. Laham, “Der pneumatologische Aspekte der Sakramente der Christlichen Mystagogie (oder Initiation)”: *Kyrios* 12 (1972) 104; cf. S. Harkianakis, “Die ekklesiologische Bedeutung von Taufe und Firmung”: E. Suttner (ed.), *Taufe und Firmung*, geRensburg 1971, 79.

13. *PG* 155, 187.

14. J. Madey, “Die Einheit der Christlichen Mystagogie in den Kirchen des Ostens: Die Firmung im Kontext von Taufe und Eucharistie”: P. Nordhues-H. Petri (eds.), *Die Gabe Gottes: Beiträge zur Theologie und Pastoral des Firmentsakramentes*, Paderborn 1974, 134.

15. Cf. J. Madey-G. Vavanikunnel, “Baptism and Confirmation in the Syro-Malabar Church: A critical analysis”: *Ostkirchliche Studien* 20 (1971)

our book<sup>16</sup> in which we have published a German translation of the text for baptism and confirmation to show the contrast between it and the Syro-Oriental rite, the distinguished review *Proche-Orient chrétien* of Jerusalem commented:

“It is regrettable that, instead of keeping to the Syro-Chaldean tradition, the liturgical committee responsible for this work, has produced a hybrid work made up of borrowings from different rites with a strong predominance of Latin elements<sup>17</sup>”.

The then Chaldeo-Malabar bishop of Palai, Mar Sebastian (Vayalil), had written already on August 26, 1970, to the above mentioned committee in regard to the sacramentary:

“The revised ritual seems to be almost a new one. So much deviation from the original is neither necessary nor warranted by the principle of revision. Let us retain the original as far as possible, and effect changes or additions in a manner fitting to our rite.... New forms should organically and harmoniously follow with the existing ones.”<sup>18</sup>

b) In the diaspora, it happens that children of Oriental parents are baptized by Roman Catholic priests because of the absence of priests of their own church. Roman Catholic priests enjoying the faculty of confirmation will administer this sacrament together with baptism to Orientals. This is foreseen also by the future oriental code according to the latest draft text (c. 31 § 2). Which faculties Roman Catholic priests may enjoy, is described in the Roman Catholic CIC (cc. 882-888).

“Even in the valid use of his faculty, the Latin priest may not prejudice the Rite in which the Oriental faithful should be confirmed. Any fraud must be avoided.”<sup>19</sup>

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43-54; see also J. Madey, *The Particular oriental vocation of the Nazrani Church* 110-129.

16. J. Madey-G. Vavanikunnel, *Taufe, Firmung und Busse in den Kirchen des ostsyrischen Ritenkreises*, Zurich-Einsiedeln-Cologne 1971.

17. *Proche-Orient chrétien* 23 (1973) 231.

18. Quoted by Th. Arayathinal, “Vicissitudes of the East Syrian Liturgy in Malabar, India”: *Symposium Syriacum 1972 celebre dans les jours 26-31 octobre 1972 a l'Institut Pontifical Oriental de Rome: Rapports et Communication* (= OCA 197), Rome 1974, 437.

19. M. M. Wojnar *I*, c. 211.



### Sanctification of Sundays and Feast Days

15. (a) *The faithful are obliged to take part, on Sundays and feast days, in the Divine Liturgy or, according to the regulations or custom of their own rite, in the celebration of the divine Praises.*<sup>17</sup> *In order that the faithful may be able more easily to fulfill this obligation, it is laid down that the period of time within which the precept may be fulfilled extends from vespers of the vigil to the end of the Sunday or feast day.*<sup>18</sup>

(b) *The faithful are earnestly exhorted to receive the holy Eucharist on these days, and indeed more frequently, even daily.*<sup>19</sup>

(a) Sanctification of Sundays and feast days is a general obligation of every faithful, be he oriental or occidental. It is to the churches *sui iuris* to decree in which way the faithful have to fulfill this obligation.

Since the celebration of the Divine Liturgy or the Eucharist as the Lord's memorial entrusted to the church has a primordial rôle in the worship of the people of God, our decree mentions it in the first place. But as the celebration of the Divine Eucharist is not the only form of worship the church offers to God, there could also be other ways of sanctifying the above mentioned days. These depend on the regulations or the custom existing in the different oriental churches *sui iuris*.

In fact, the ancient practice in the oriental churches does not limit the sanctification of Sundays and feast days to the participation of the faithful in the Divine Liturgy alone. The participation in the canonical prayer, the divine Praises, has been widely considered as equivalent. Victor J. Pospishil in his

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17. Cf. Synod of Laodices (347/381), c. 20; St. Nicéphorus of Constantinople, ch. 14; Armenian synod of Dwin (719), ch. 31; St. Theodore Studites: sermon 21; St. Nicholas I, letter *Ad consulta uestra*, November 13, 866, "In quorum Apostolorum"; "Non cupitis"; "Quod interrogatis"; "Praeterea consultis"; "Si die Dominico"; and particular synods.

18. Something new, at least where there is the obligation of hearing the sacred liturgy; for the rest, it is in harmony with the liturgical day among the Orientals.

19. Apostolic canons 8 and 9; Synod of Antioch (341), c. 2; Timothy of Alexandria, interrog. 3; Innocent III, const. *Quia divinae*, January 4, 1215; and many more recent particular synods of oriental churches.

commentary, distinguishes therefore three legal possibilities which may regulate the religious life of the faithful:

1. No strict obligation, except a general demand of assistance at the divine services;
2. Strict legal obligation to attend church without specifying whether at the Divine Liturgy or at any time of religious services, nor how long the assistance has to last every time;
3. Strict legal obligation to assist at the Eucharistic sacrifice.<sup>20</sup>

M. M. Wojnar quotes in his commentary canonical sources of different oriental catholic churches<sup>21</sup> which, however, do not reflect the ancient oriental traditions but stem from synods held at a time when latinization of the oriental discipline had been in vogue. Some of these synods were approved by Rome, others never got any official pontifical approval.

It is interesting to note that the Italo-Albanian synod of Grottaferrata near Rome held in 1940 does not speak directly of an obligation the faithful have to attend the Divine Liturgy and to abstain from work on Sundays and feast days, but of a *recommenda-tion* (art. 148).

There is *no strict legal obligation* to attend the Divine Liturgy in the Greek (Hellenic), Russian, Ethiopian and Syro-Malankara Catholic Churches.

In his letter to the clergy (1936), Mar Ivanios only says that it should be insisted that the faithful receive communion once in a month and sanctify the Sundays and feast days according to the laws of the holy church.<sup>22</sup>

For the Russians, their canonical sources say that they should not work on Sundays and feast days but go to church "as it is proper to Christians."<sup>23</sup>

20. Cf. *Orientalium Ecclesiarum* 38f.

21. Cf. "Decree on the Oriental Catholic Churches" 213-216.

22. Placidus a S. Joseph, *Fontes Iuris Canonici Syro-Malankarensium* (= S. Congregazione per la Chiesa Orientale: Codificazione Canonica Orientale, Fonti, serie II, fasc. IX), Vatican City 1940, 233; see also E. M. Philip, *The Indian Church of St. Thomas the Apostle*, Tiruvalla 1929, 357.

23. *Textus selecti iuris ecclesiastici russo um* = *ibid.*, fasc. VII), Vatican City 1944, 305.

As regards the Chaldeo-Malabar Church, the so-called "synod" of Diamper introduced the obligation for men and women alike "to hear the full Mass" on the days of obligation (Decree XII no. 131), but since this "synod" is considered by many authors as being not valid, this prescription is of doubtful validity. The custom before this synod was contrary to this obligation. "Even the post-Diamper custom, if introduced on the basis of this synod, would not be obligatory, as it was based on an error."<sup>24</sup>

In implementing the council decree on the Oriental Catholic Churches, the Holy Synod of the Melkite Greek Catholic Patriarchate, as the supreme authority of this church *sui iuris*, definitely sanctioned the practice already in existence over a long time by prescribing the obligation of attending the Divine Liturgy on Sundays and feast days, emphasizing the gravity of this obligation and saying explicitly that the participation in the divine Praises (canonical hours) would not be sufficient. Patriarch Maximos IV communicated this decision to all the faithful of his church in his pastoral letter of January 15, 1965.<sup>25</sup>

It would, however, not be correct to speak of the obligation of sanctifying these days as being *sub gravi* or *sub levi*. These distinctions are typically western and there is no reason to give them a place in eastern theology. Nevertheless, this does not mean indifference! Having been duly instructed on the outstanding value and importance of the Eucharist, the oriental faithful will become more and more conscious that negligence in regard to the Eucharist is a sin against the Lord.

In the early church, eastern and western, there was a discipline which found its expression in different synods. The local synod of Elvira (Spain) says in its c. 21 that those who do not attend church on three consecutive Sundays should be excommunicated for a certain time. The oriental discipline was exactly the same, as we may see in c. 80 of the council in *Trullo* (692). In the West, it is a local synod held at Agde (France) in 506, which decreed, for the first time, the obligation of assisting the *entire* Sunday Mass.

24. M. M. Wojnar, *l. c.* 214; cf. T. Puthiakunnel, *Syro-Malabar Clergy and Their General Obligations*. Pachalam 1964, 23-28.

25. Quoted in N. Edelby-I. Dick, *Les Eglises Orientales Catholiques* 404.

In the large Greek-French catechism, edited by the then Apostolic Delegate in Constantinople, Msgr. V. Sardi, we find the following question and answer in this context:

“Is the precept (of divine worship on Sundays and feast days) in the Greek Catholic Church obligatory for the faithful on pain of mortal sin?” “No, but he who is neglecting to obey it, sins more or less gravely according to the degree of his negligence; but participation in another important ceremony as the Taudes (orthros; saprā) is sufficient to fulfill the precept.”<sup>26</sup>

Taking into consideration all that has been said above, we may draw the conclusion that the churches *sui iuris* are at the same time entitled and obliged to regulate the way of sanctifying the Sundays and feast days. The council Vatican II allows them to fix the time in which this obligation can be fulfilled, from vespers (hesperinos; ramṣā) of the vigil till the end of the respective Sunday and feast day. Before the council, most of the Oriental Catholic churches had followed the Latin reckoning of the day from midnight to midnight. Only this extension of the Sunday and feast day may now be called a common law.

The council does not specify which are the obligatory feast days or which feasts are particular to the oriental churches. This regulation is left to the particular legislation of each oriental church.

b) The second part of our article contains an earnest exhortation addressed to the faithful to receive the holy Eucharist as often as possible. This exhortation is not at all an innovation. Frequent holy communion seems to have been abandoned in the East as in the West very early. Already St. John Chrysostom (+ 407) deplores the fact that many of his faithful approached the Eucharist very rarely, once or twice a year only. St. Basil the Great, whom the oriental churches venerate as one of their greatest fathers, recommended even the daily reception of the Body and Blood of our Lord.

While two western local synods recommended the faithful to receive the Eucharist at least three times a year (Agde, 506, and Turin, 813), the fourth council of Lateran (1215) imposed

26. See *ibid.* 403.

the annual communion during the paschal season (c. 21). In the Middle Ages, eastern orthodox as well as western catholic christians used to receive communion on the great feasts, i. e. three to four times a year. This practice continues in non-catholic oriental churches.

Of course, this practice is far from the ideal, as pointed out by St. Basil the Great. It is a fact that frequent communion fell into desuetude. At the eastern and oriental orthodox liturgies, very often nobody from the congregation receives the Eucharist (as it had happened in the western, Roman Catholic Church not too long ago, when the eucharistic fast had been prescribed from midnight onwards and Mass was celebrated late in the morning); sometimes only little children are brought to the priest on the arms of their parents, and they represent the whole people of God present. Although the liturgical books of the Syrian Church of Antioch have communion of the faithful immediately after that of the priest (and deacon) and before the "Prayer of Thanksgiving"<sup>27</sup> it has become their custom to administer this sacrament only after the dismissal of the faithful, just before the priest consumes the remaining consecrated species. Holy communion thus becomes a kind of appendix to the liturgy instead of being its climax. This is certainly an abuse which ought to be corrected.

Oriental Catholic Churches followed, under Roman Catholic influence, the practice of frequent communion, especially since the time of Pope Pius X. As many of the oriental catholic churches have adopted the prescription of the fourth Lateran council, communion at Easter has been widespread.

Vatican II does not speak of an obligation, but it earnestly and strongly exhorts the faithful to receive holy communion as often as possible. This means, in the first instance, on Sundays and feast days, but also during the week or even every day on account of the most eminent significance of the Eucharist, the most effective sign of the union of Christ and man, for each individual and for the church itself.

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27. Cf. *Anaphora: The Divine Liturgy of Saint James, The First Bishop of Jerusalem, according to the rite of the Syrian Orthodox Church of Antioch*, published by Metropolitan Mar Athanasius Yeshue Samuel, Archbishop of the Syrian Orthodox Church in The United States and Canada, <Hackensack, New Jersey> 1967, 60.

The article on the sanctification of Sundays and feast days is reflected in the draft for the future oriental canon law, especially in c. 43 of the pertinent schema. It is divided into three paragraphs each containing one sentence. There is only a small diversification of the original text. In § 2, the words "In order ... to fulfill the obligation" are omitted, and "faithful" was replaced by "Christians" (christifideles).

The following canon speaks of the obligation to receive the Eucharist in danger of death and at the time decreed by the most praiseworthy custom or the particular law of each church, especially during the paschal season, when Christ the Lord transmitted the eucharistic mysteries.<sup>28</sup>

### The Minister of Confession

*16. Since the faithful of different individual churches are constantly intermingled with each other in the same Oriental region or territory, the faculty of hearing confessions given to priests of any rite by their own hierarchs duly and without restriction extends to the territory of him who grants it, and also to the places and faithful of any rite in the same territory, unless the local hierarch has explicitly refused this for places of his rite.*<sup>20</sup>

We can note a real progress in this article. It examines a situation of several jurisdictions in the same territory, as e.g. in Kottayam where there are four jurisdictions (Chaldeo-Malabar of Changanacherry <for the Northists> Chaldeo-Malabar of Kottayam <for the Southists>, Syro-Malankara and Roman Catholic), or in the United States where several jurisdiction superpose each other<sup>29</sup>. Although the principle of territorial jurisdiction has not been abrogated by Vatican II, the too formal view prevailing until then, according to which presbyters could hear confessions only in *places* under the jurisdiction of

20. While safeguarding the territorial jurisdiction, the canon intends, for the good of souls, to provide for < the situation which arises from > plurality of jurisdiction in the same territory.

28. Cf. *Nuntia No. 15*, 30f.

29. Cf. J. Madey, "Oriental Catholic Churches in North America: Development and present state": *Christian Orient* 7 (1986).

their own respective hierarchs, has been done away. The presbyter had to be entitled by each hierarch individually, if he was supposed to serve *all the Catholics* irrespective of their affiliation to any of the individual churches existing in the same territory.

This could lead to rather strange situations. Churches, as well as the adjacent buildings are under the exclusive jurisdiction of a certain bishop. In order to hear confession in the church of this bishop or in the presbyterate or parish hall, a presbyter of the same place had to seek special jurisdiction; on the other hand, he could hear the confession of the clergy and faithful belonging to the jurisdiction of the same bishop in his own church as well as in the street, public places or even in the garden of the presbytery belonging to another jurisdiction.

Our article, therefore, does away with such a formalistic regulation, extending the power of hearing confession of each priest of the territory also to *the places and faithful of the other individual churches*. Hence every legitimately ordained priest, appointed or recognized by his own bishop, normally enjoys the faculty of hearing confession *in all the jurisdictions existing in the same territory*, provided he has not been expressly excluded from doing so by the competent bishop.

So nothing of the rights of each bishop has been withdrawn, but at the same time, the too rigid formalism has been abandoned.

Already in their synod of January 8 and 9, 1965, the Melkite Greek Catholic hierarchy extended the faculties of the presbyters belonging to this individual church. Each bishop declared the granting of jurisdiction to every Melkite presbyter who has obtained the right of hearing confession by his own ordinary, for their eparchies. Hence each Melkite priest entitled to hear confession by his own bishop, could use this right licitly in all the eparchies of the Melkite patriarchate.<sup>30</sup>

The expectation of further changes, expressed in commentaries published soon after the promulgation of this decree<sup>31</sup>, was not absent in the discussions of the commission for the

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30. Cf. N. Edelby-I. Dick, *Les Eglises Orientales Catholiques* 409.

31. Cf. V. J. Pospishil, *Orientalium Ecclesiarum* 41.

recodification of the oriental canon law. The draft text of the schema on worship and the sacraments proves that a re-thinking of the theological and canonical basis of the sacrament of reconciliation was regarded as necessary.

The proposed text seems to us more distinct than the one we find in the present Roman Catholic CIC (cc. 965ff.).

The draft text states that the sacrament of penance is administered, in virtue of the priestly ordination, by bishops and presbyters (c. 55 § 1). It must be noted that the term *priest* is valid for bishops and presbyters alike.

Bishops, however, enjoy the faculty to administer this sacrament validly and licitly everywhere in the world, unless the eparchial bishop expressly revokes this permission (c. 55 § 2).

Presbyters have the faculty to administer this sacrament validly and licitly if they are given this faculty by their competent authority. They can validly administer this sacrament everywhere in the world to any Christian faithful (*christifidelibus*); but they have to observe the norms established by the eparchial bishop and obtain permission from the rector of the church or the superior of an institute of consecrated life, if they hear confession there (c. 55 § 4; cf. c. 56 § 2).

Only for grave reasons, the faculty of administration of the sacrament of penance should be withdrawn (c. 58 § 1). If the faculty is withdrawn by the hierarch in whose territory the presbyter has his residence or quasi-residence, this administrative act is valid everywhere in the world. If it is withdrawn by another legitimate authority, this limitation of jurisdiction is valid exclusively for the places this authority is responsible for.

This means, for instance, if N., presbyter of the eparchy of A. has been deprived of the faculty of hearing confession by the bishop of A., he is categorically denied the right to administer this sacrament licitly anywhere in the world; if he is forbidden to hear confessions by the bishop of the eparchy of B., this restriction is valid only in the eparchy of B.



### Restoration of Permanent Diaconate

17, *In order that the ancient discipline of the sacrament of orders may flourish again, this sacred synod earnestly desires that the institution of the permanent diaconate be restored where it has fallen into disuse.*<sup>21</sup> *The legislative authority of each individual church should make provision concerning the subdiaconate and the lower orders and their rights and obligations.*<sup>22</sup>

The institution of the permanent diaconate has never been absent in the oriental churches, although in practice there were few permanent deacons both in oriental catholic and in orthodox churches. In the Roman Catholic church, the then CIC forbade the ordination of those who were not disposed to receiving later the ordination to the presbyterate. Therefore the Constitution on the Church *Lumen Gentium*, 29, envisaged a change of discipline stressing the importance of the diaconate as a proper and permanent rank of the hierarchy:

“At a lower level of the hierarchy are to be found deacons, who receive the imposition of hands ‘not unto the priesthood, but unto the ministry’ (*Constitution of the Egyptian Church*, III, 2: ed. Funk, *Didascalia*, II 103; *Statuta Ecclesiae Antioch.* 37-41: Mansi 3, 954). For strengthened by sacramental grace they are dedicated to the People of God, in conjunction with the bishop and his body of priests, in the service of the liturgy, of the Gospel and of the works of charity. It pertains to the office of a deacon, in so far as it may be assigned to him by the competent . . . .<sup>32</sup> Dedicated to works of charity and functions of administration, deacons should recall the admonition of St. Polycarp: “Let

21. Cf. Syn Nic, I, c. 18; syn. Neocaesar., 314/325, c. 12; syn. Sardica, 343, c. 8; St. Leo the Great, letter *Omium quidem*, January 13, 444; syn. Chalcedon, c. 6; syn. Constantinople IV, cc. 23, 26, etc.

22. The subdiaconate is regarded by several oriental churches as a minor order, but Pious XII's *motu proprio Cleri sanctitati* has attached to it the obligation of the major orders. The canon proposes a return to the ancient discipline of the individual churches in regard to the obligations of the subdiaconate derogating from the common law of *Cleri sanctitati*.

32. Cf. M. M. Wojnar, “Decree on the Oriental Catholic Churches” 220.

them be merciful, and zealous, and let them walk according to the truth of the Lord, who became the servant of all' (St. Polycarp, *Ad Phil.* 5, 2: ed. Funk I 306. It is said that "Christ became the 'diaconus' of all". Cf. *Didache* 15, 1: *ibid.* 32. St. Ignatius Martyr, *Trall.* 2, 3: *ibid.* 242. *Constitutiones Apostolorum* 8, 24, 4: ed. Funk, *Didascalia* I 580). Since, however, the laws and customs of the Latin Church in force today in many areas render it difficult to fulfill these functions, which are so extremely necessary for the life of the Church, it will be possible in the future to restore the diaconate as a proper and permanent rank in the hierarchy. But it pertains to the competent local episcopal conferences, of one kind or another, with the approval of the Supreme Pontiff, to decide whether and where it is opportune that such deacons be appointed. Should the Roman Pontiff think fit, it will be possible to confer this diaconal order even upon married men, provided they be of more mature age, and also on suitable young men, for whom, however, the law of celibacy must remain in force."

One year later, in the Decree on the Church's Missionary Activity *Ad Gentes Divinitus*, 16, the council fathers, referring to the above quoted article of the Constitution on the Church say:

"Wherever it appears opportune to episcopal conferences, the diaconate should be restored as a permanent state of life, in accordance with the norms of the Constitution on the Church. It would help those men who carry out the ministry of a deacon – preaching the word of God as catechists, governing scattered Christian communities in the name of the bishop or parish priest, or exercising charity in the performance of social or charitable works – if they were to be strengthened by the imposition of hands which has come down from the apostles. They would be more closely bound to the altar and their ministry would be made more fruitful through the sacramental grace of the diaconate."

On August 15, 1972, Pope Paul VI, certainly in virtue of his office of Patriarch of the western church, published the norms

concerning the order of diaconate in his apostolic letter *Ad pas-cendum* where he followed the proposals of the council fathers. On the same day he also published another apostolic letter, *Ministeria quaedam* on the offices below the diaconate which replace the former minor orders. Since January 1, 1973, when the norms of this apostolic letter came into force, the Roman Catholic Church has got but two ministries below the diaconate, namely those of lector and acolyte. The subdiaconate no longer exists in the Roman Catholic Church. The two ministries are not conferred by a rite called "ordination", but by one called "installation".<sup>33</sup>

In the oriental catholic churches, on the contrary, the permanent diaconate has never been officially abolished, although in practice deacons have been rather scarce, because they could not be employed full-time for financial reasons. But now there is the possibility everywhere of having deacons working in secular professions. The deacon has had an essential role in the liturgical life of the oriental churches more than in the western church. In some of them, particularly in the churches of the Syriac tradition, the liturgical books require a deacon for the celebration of the divine liturgy, and it is certainly not the ideal to see his function taken over by lower ministers or even altar boys. Therefore the oriental churches in communion with Rome should pay heed to the appeal to restore the diaconate according to their own genuine discipline everywhere. The hierarchy should foster this in all possible manner and provide for their formation before and after their ordination.

Now, more than twenty years after the promulgation of our decree – which took place on the same day as that of the constitution on the Church –, it looks as if the Roman Catholic Church has more willingly accepted the restoration of the order of diaconate than the oriental churches which boast of having had this tradition throughout the ages. A look into the *Annuario Pontificio* or into the directories can prove to what extent the permanent diaconate is a living reality in the oriental churches. We note that the hierarchy in the countries of emigration has been much more active in restoring the diaconate than in the traditional territories.

33. *Acta Apostolicae Sedis* 64 (1972) 529-534.

*No deacons at all* have the Coptic, the Chaldeo-Malabar and the Hungarian churches.

*In their traditional territories*, the Ethiopians have four permanent deacons (eparchy of Asmara), the Syrians 5 (1 in Jerusalem, 1 in Istanbul, 1 in Baghdad and 2 in Damascus), the Syro-Malankara have 5 permanent deacons in Trivandrum archeparchy, the Chaldeans 10 in the archeparchy of Teheran, the Armenians 1 in Istanbul and the Italo-Albanians 1 in Lungroeparchy. There is 1 permanent deacon in the eparchy of Krizevci, Yugoslavia.

*In the countries of emigration*, however, there are most of the permanent deacons; some churches have permanent deacons only there. The Melkites have 5 in the eparchy of Newton (U. S. A.), the Maronites 5 in the eparchy of St. Maron of Brooklyn (U. S. A.), the Ruthenians of the United States have 16 deacons (eparchy of Passaic 10, eparchy of Van Nuys 6 of whom two are bi-ritualists). The Ukrainians have permanent deacons in all the ecclesiastical circumscriptions abroad with the exception of the apostolic exarchates of Great Britain and France (United States: metropolitan eparchy of Philadelphia 1, eparchy of St. Josaphat in Parma 1, eparchy of St. Nicholas of Chicago 3, eparchy of Stamford 2; Canada: metropolitan eparchy of Winnipeg 11, eparchy of Edmonton 6, eparchy of New Westminster 2; eparchy of Saskatoon 3, eparchy of Toronto 15; Australia, eparchy of Saints Peter and Paul in Melbourne 1; eparchy of St. John Baptist in Curitiba, Brazil, 1; eparchy of St. Mary "del Patrocinio" in Buenos Aires, Argentina, 1; Germany: apostolic exarchate 1).<sup>34</sup>

This survey makes clear that there is still a lot to be done in order to implement the council's wish. It is evident that the restoration of the Chaldeo-Malabar eucharistic liturgy will only be fully implemented, when all the churches will have their deacons. In this regard, there is also a large leeway for the Chaldean patriarchate to make up.

The second statement of the article under consideration relates to the subdeacons and other clerics. Permanent subdeacons exist in the Syrian, Chaldean, Coptic and Ethiopians

34. Cf. *Annuario Pontificio* 1986.

churches, although the *Annuario Pontificio* does not take any note of this in its statistics!

The most important statement of Vatican II regarding the subdiaconate is found in footnote 22 of the decree. Although the subdiaconate belongs, according to the oriental traditions, to the lower orders, the legislation of *Cleri sanctitati* as well as of *Crebrae allatae* (the latter contains the canons of matrimonial law) attached to it the obligations of the major orders regarding marriage or (with the Armenians) the obligation of reciting the canonical hours.

Vatican II allowed the competent authorities of the oriental churches to return to their own original legislation. A subdeacon may marry after having received the ordination to the subdiaconate, but not after the diaconate.

The authorities in question are, in the patriarchal / archiepiscopal churches, the patriarchal / archiepiscopal synod, in the other oriental churches, the provincial or "national" synod.<sup>1</sup> It is within the competence of these authorities to decide on the number of lower orders, especially in those churches which, due to their latinization, at a certain epoch have followed the Roman Catholic practice of pre-Vatican II, as e. g. the Armenian and the Chaldeo-Malabar Churches. The latter has returned to the old Syro-Oriental practice when the restored Syro-Oriental Pontifical was made obligatory for both the Chaldean and the Chaldeo-Malabar Church. The Armenians went the opposite way, after Vatican II, in abolishing all the minor orders in imitation of the Roman Catholic Church which is the more regrettable, as this was done unilaterally, i. e. without taking into consideration the practice of the larger Armenian Apostolic Church whose traditions they are supposed to share. In fact, the Armenian Apostolic Church is the only one in the world which is now following the old Roman rite order of having after tonsure, the four minor orders.

#### **Mixed Marriages of Oriental Catholics With Oriental Non-Catholics**

*18. To obviate invalid marriages, when Oriental Catholics marry baptized Oriental non-Catholics and in order to promote the stability and the sanctity of marriage as well as domestic peace, the sacred synod decrees that the canonical form for*

*these marriages obliges only for lawfulness; for their validity the presence of a sacred minister is sufficient, provided that other prescriptions of law are observed.*<sup>23</sup>

The tenor of this article is dictated by pastoral solicitude to avoid as far as possible invalid marriages of oriental catholics with non-catholic orientals. We have no intention to discuss here all the canonical implications of this article existing at the time of its promulgation which had been done extensively<sup>35</sup>. Only the following points need be emphasized:

1. Every Catholic, also every one belonging to an oriental church in communion with Rome, is bound to observe the canonical form, if he or she contracts marriage with another faithful of the Catholic Church. The same is valid also in regard to his or her marriage with a non-catholic oriental Christian. For serious reasons dispensation from the form is possible, as indicated in the footnote 23 of the decree itself.

2. Nevertheless, even if an oriental catholic disobeys the rule mentioned above and marries a non-catholic oriental Christian, his marriage is valid provided it was contracted in the presence of a sacred minister.

3. Since in the comprehension of the orientals, it is the priest who is the minister of the sacrament, because all the sacraments are a communion with Christ through his church and the priest is his representative, only a priest, i. e. a presbyter or a bishop, is to be considered as the competent "sacred minister", not a deacon, as this is possible in the Roman Catholic Church. The text of our decree however, does not specify that the "sacred minister" must be an Oriental non catholic priest. This could lead to canonical situations which the fathers of Vatican II certainly did not have in mind.<sup>36</sup>

23. Cf. Pius XII, *Motu proprio Crebrae allatae*, February 22, 1949, c. 32 § 5 // 5 (faculty of patriarchs from the form); Pius XII, *Motu Proprio Cleri sanctitati*, June 2, 1957, c. 267 (faculty of patriarchs to grant sanation in radice); S. Congreg. of Holy Office and S. Congr. for the Orient. Church, in 1957, granted the faculty of dispensing from the form and sanating because of defect of form (for the period of five years): "outside of patriarchates, to the metropolitans and the other local ordinaries .. who have no superior below the Holy See".

35. Cf. V. J. Pospishil, *Orientalium Ecclesiarum* 44-52.

36. *Ibid.* 49.

4. It is a matter of course that the other prescriptions of law have to be observed,

After Vatican II, a series of documents have been published by the Holy Roman See in regard to mixed marriages of which some have taken into consideration the statement of our article, too.

As early as on March 18, 1966, the Congregation for the Doctrine of Faith issued an instruction on mixed marriages *Matrimonii Sacramentum*<sup>37</sup>. It concerns in the first instance, marriages between western catholic and western non-catholic Christians. About four years later, Pope Paul VI published the apostolic letter *Matrimonia Mixta*<sup>38</sup> on January 7, 1970 which is a fruit of the post-Vatican II Synod of Bishops held in 1967. This document is, however, not relevant in our context. "At the outset we state that the eastern catholics contracting marriage with baptized non-catholics or with unbaptized persons are not subject to the norms established by this letter. With regard to the marriage of Catholics of whatever rite with eastern non-catholic Christians, the church has recently issued certain norms which we wish to remain in force", writes Paul VI.

As regards the issue under consideration, i. e. marriages between Catholics and non-catholic oriental Christians, we have to refer to the decree of the Oriental Congregation *Crescens Matrimoniorum*<sup>39</sup> of February 22, 1967, which extends the application of the norms enunciated in art. 18 of our decree also to Roman Catholics contracting marriage with oriental non-catholic Christians. In the ecumenical directory *Ad Totam Ecclesiam*<sup>40</sup> of May 14, 1967, published by the Secretariat for Promoting Christian Unity, it is only said that non-catholic oriental Christians are entitled to "act as bridesmaid or best man at a wedding in a Catholic Church. A Catholic too can be best man or bridesmaid at a marriage properly celebrated among separated <oriental> brethren" (no. 49). This directory does not deal, however, with our topic itself.

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37. *Acta Apostolicae Sedis* 58 (1966) 235-239.

38. *Ibid.* 62 (1970) 257-263.

39. *Ibid.* 59 (1967) 165f.

40. *Ibid.* 59 (1967) 574-592..

The Schema of the canons concerning worship and sacraments deals, in several canons, also with mixed marriages. Regarding impediments, they are ruled by the proper law of either party, unless it is contrary to divine law (c. 118).

For the celebration of matrimony, the canons do not differ from the decree on the Oriental Catholic Churches. This means, that as a rule, marriage between two baptized persons of whom one is catholic and the other non-catholic is prohibited without previous permission of the competent authority (c. 148). For a just and reasonable cause this permission can be granted provided that certain conditions are fulfilled (c. 149). This canon regards marriages of catholics with western non-catholics.

The issue of art. 18 is reflected and defined in the following canon of the draft text.

If a catholic partner contracts marriage with an oriental non-catholic Christian, the canonical form is required solely for lawfulness (*ad licitatem*); as regards the validity of the marriage, the benediction of a *priest*—the ambiguous term “sacred minister” of the decree has been replaced—is necessary notwithstanding other prescriptions of law (c. 169 § 2). We hope that, in the final text, it will be made more clear that it must be at least a priest of the non-catholic oriental church to which one of the partners belongs.

While the local hierarchs have the right to dispense from elements of the canonical form regarding the celebration of matrimony, dispensation, for grave reasons, from the required sacred rite is reserved to the Apostolic See or, within the boundaries of the territory of the patriarchal church, to the patriarch. He will grant this dispensation only for very serious reasons (c. 169 § 3).<sup>41</sup> What has just been said in regard to patriarchs, is also valid in respect of a major archbishop.

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41. *Nuntia* No. 15, 85.



## CHAPTER VI

### DIVINE WORSHIP

#### Feast Days

19. *It belongs exclusively to an ecumenical synod or to the Apostolic See to establish, transfer or suppress feast days common to all oriental churches. On the other hand, to establish, transfer or suppress the feast days of any particular church is in the competence not only of the Apostolic See, but also of the patriarchal or archepiscopal synods, due regard being had to the whole region and the other individual churches.*<sup>24</sup>

According to M. M. Wojnar who was a member of the commission charged with the preparation of the text of the decree, the following feast days are common to all oriental catholic churches: all the Sundays, Christmas, Epiphany, Ascension, Dormition (Assumption) of the Blessed Virgin Mary, ss. Peter and Paul.<sup>1</sup> Only an ecumenical synod of the Roman Apostolic See have the power to establish new feasts to be observed by all the individual churches; the same authority has also the competence of translating or suppressing existing common feasts.

As regards the feast days proper to any individual church, we have to distinguish (a) patriarchal and archepiscopal churches, and (b) other individual churches.

(a) In these churches, the authority in regard to the feasts is either the Roman Apostolic See or the competent Holy Synod.

(b) In the non-patriarchal churches governed by metropolitans or, if numerically small, by bishops "who have no superior below the Holy See" (as it was formulated in footnote 23 above), only the Roman Apostolic See being the highest authority in liturgical matters, is competent to decide on this issue.

24 Cf. St. Leo I, letter *Quod saepissime*, April 15, 454: "Petitionem autem"; St. Nicephorus of Constantinople, ch. 13; Synod of Patriarch Sergius, September 18, 1596, c. 17; pius VI, apost. letter *Assueto paterne*, April 8, 1775; etc.

1. "Decree on the Oriental Catholic Churches" 222.

The council's decision does not affect at all the authentic liturgical calendar of any individual church. On the contrary, each of them is obliged, in virtue of article 6, to restore its own authentic calendar and to purge it of all elements which may have crept into it in the past. This was the case in the Chaldeo-Malabar Church as well as in the Maronite Church to a large extent<sup>2</sup>, but certain major or minor latinizations can be found also in the calendars of other oriental catholic individual churches. Neither the feast of St. Joseph nor of Christ the King are feasts common to all the oriental churches. The latter was introduced by Pope Pius XI only for the Roman rite Church. There is also no sense at all to shift e. g. the feast of All Saints from its original place or to have All Souls' Day on November 2 in addition to the days of commemoration of the dead according to the proper calendar.

Let us have a look at a few liturgical calendars:

The calendar of the *Chaldeo-Malabar* (Chaldeo-Indian) Church was restored as early as in 1955 by a special commission established by the Holy Roman See. Although it came closer to the traditional Syro-Oriental calendar, it looks like the result of a compromise, containing twenty typically western commemorations of saints (from a total of 71). We speak here only of the feasts and commemorations contained in the book called "Hudrā".<sup>3</sup>

The Chaldean Catholic Church has also introduced ten feasts and commemorations which their non-catholic counterpart does not have, but with the exception of the feast of St. Joseph on March 19, all the other feasts are celebrated in oriental churches.<sup>4</sup>

In the calendar of the *Syro-Malankara* Church, too, we still find traces of latinization which can hardly be justified, since this individual church entered into ecclesial communion with the Catholic Church less than 60 years ago. These latinizations are

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2. Cf. M. Hayek, *Liturgie Maronite: Histoire et les texts eucharistiques*, Tour.-Paris 1964, 119-130.
  3. Cf. Sacra Congregazione per la Chiesa Orientale, *Supplementum Mysteriorum sive proprium Missarum de Tempore et de Sanctis iuxta Ritus Ecclesiae Syro-Malabarensis*, Rome 1969.
  4. Cf. *Missel Chaldeen: L'Ordre des Mysteres ave les trois anaphores selon le rite de la sainte Eglise de l'Orient. En usage chez les Chaldeens catholiques du patriarcat de Chaldee-Babylone*, 329f.

mainly due to the work of missionaries coming from the Roman Catholic and the latinized Chaldeo-Malabar Churches in the early period. We find, in this calendar, the feasts of Corpus Christi, of the Sacred Heart of Jesus and of Christ the King (now also shifted to the last Sunday of the season of the Church, according to the new Roman Catholic calendar), and All Saints' feast on November 1 which the Syro-Antiochean rite has not. (If a commemoration of all the saints were to be held, why then was not the Byzantine calendar followed which has this feast on the first Sunday after Pentecost?) There are also the commemorations of St. Therese of Lisieux and St. Francis Xavier<sup>5</sup> in the Syro-Malankara calendar.

Due respect is to be given to the restored calendar of the Maronite Church, as we find it in the newest liturgical books<sup>6</sup>. What a contrast to that hybrid form of an "oriental" calendar, as published in the official edition of the "missal" of 1908.<sup>7</sup>

The recent canonizations of Oriental faithful – St. Sharbel the Maronite hermit-hieromonk, nuns Bl. Mariam (Melkite), Bl. Refka, (Maronite mystic), Bl. Alphonsa (Chaldeo-Malabar), and Bl. Kuriakose Eliya, the founder of a religious congregation (Chaldeo-Malabar) – permit the oriental catholic churches to develop their calendars and eliminate, at the same time, what does not properly belong to them. This is meant by the final clause of our article. Without requiring uniformity, the commemorations of oriental saints should be celebrated on the same day also for pastoral reasons, especially by the Churches in one and the same region.

### The Date of Easter

*20. Until such time as all the Christians are agreed on the celebration of Easter on the same day by all, with a view meantime to promoting unity among the Christians in the same*

5. Cf. *The order of the Holy Qurbana of the Syro-Malankara Rite: with an Introduction and short Commentary*, Trivandrum 1964.

6. Cf. *Fengitho: A Treasury of Feasts according to the Syriac-Marionite church of Antioch*, Brooklyn, New York, 1930, containing the proper and common parts for the celebration of *Holy Qurbana*, and B. Gemayel (ed). *The prayer of the Faithful according to the Maronite Liturgical Year*, *ibid.* 1982-1985, 3 volumes, containing the divine praises or "Liturgy of the hours".

7. See ann. 2 above.

*region or nation, it is left to the patriarchs or the supreme local authorities to come to an agreement by the unanimous consent and combined counsel of those affected to celebrate the paschal feast on the same Sunday.*<sup>25</sup>

The Council Vatican II emphasizes here the importance of Easter, the "Feast of the Feasts" celebrating the resurrection of Our Lord, for promoting unity among the Christians, especially of the same area or nation. This is why the individual churches existing in the same region or territory are exhorted to unanimously give witness of their common faith in the mystery of salvation. Therefore all should celebrate this feast on one and the same Sunday.

In 1582, pope Gregory XIII introduced a new calendar in the place of the old Roman calendar. While the catholic countries of the West switched on to this calendar, the protestant countries did so after some hesitation. In the Orthodox East, both State and Church were rather reluctant in accepting a calendar which was believed to be a Roman innovation. Even when the governments introduced the Gregorian computation, some of the Eastern Orthodox Churches categorically refused the new calendar arguing that it was in contrast to the decisions of the first seven ecumenical councils. Other churches simply ignored it. When e.g. the introduction of the Gregorian calendar in the Melkite Greek Catholic Church in the 19th century, led to a schism in this Church for a certain period. Today we have in the Christian East, three different computations regulating the practice of the churches:

a) Churches holding exclusively to the old Julian calendar: Among the non-catholic churches, most of the Slav churches, the churches of the Alexandrian tradition and a part of the Syro-Oriental church (Church of the East) adhere to the old calendar; so also do the Ukrainian Catholic, Ruthenian, Byelorussian and Russian Catholic churches in Europe. Most of the Ukrainian catholic parishes in Canada, too follow the Julian computation.

b) Churches using the Gregorian computation for the whole year except for the periods of Great Lent and Resurrection. During these two periods, they follow the Julian calendar in order to safeguard unity of the whole Orthodox Church. This practice

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25. Cf. II Vatican Synod, Const. *De Sacra Liturgia* December 4. 1963.

is also observed by the Syrian Orthodox Patriarchate of Antioch in the eparchies of the Near East.

c) Churches which follow, unconditionally, the Gregorian calendar. This is the case, among the non-catholic churches, with the Finnish Orthodox Church (the only exception among the Eastern Orthodox Churches in regard to the celebration of Easter), the Armenian Apostolic Church and the Syrian Orthodox Church (Malankara Church) in India. The oriental catholic churches of the Near East adopted the Gregorian calendar in the 19th century. In the countries of emigration, many oriental catholic jurisdictions have also adopted the Gregorian computation. This is the case with most of the Ukrainian parishes in the United States; the Syrian Orthodox archdiocese in the United States and Canada have obtained permission to follow the Gregorian calendar.

A similar permission was also granted by a synod of the Syrian Orthodox Church held under the chairmanship of Patriarch Ignatius Zakka I at St. Ephrem's Monastery, Losser (The Netherlands), to the eparchies in Central Europe and Scandinavia, but as not all the hierarchs of this Church could attend the synod and sign the minutes, it has not yet received legal force.

Some Catholic hierarchies decided, after the promulgation of the decree, to join their non-catholic brethren in celebrating the great mysteries of the faith. Thus in 1965, the Catholics of Ethiopia, oriental as well as western, decided to celebrate the feast of the Resurrection of Our Lord together with the faithful of the Ethiopian Orthodox Church who form the large majority of the christians of this country.

In the meantime, two other hierarchies have made the same decision: Roman Catholics and Greek Catholics follow the Julian computation for Great Lent and Resurrection, i. e. the time of the *Triodion* and *Pentekostarion*, in Greece.

On November 6, 1966, the hierarchy of all the Catholic individual churches in Egypt decided during their reunion held under the chairmanship of the then Coptic Catholic Patriarch of Alexandria, Amba Stephanos I, to follow the old calendar for this period observed by the Coptic Orthodox Church to which the great majority of the Egyptian christians belong, and by the Greek Orthodox Church of Alexandria. This regulation

obtained legal force from the beginning of Great Lent 1967. However, the Armenian Catholic diocese of Iskanderiya, which has personal jurisdiction over all the Armenian faithful in Egypt, did not adopt this regulation, because the Armenian Apostolic Church observes the Gregorian calendar everywhere, Egypt included.

The issue of a common Easter celebration will also be one of the topics to be resolved at the coming pan-orthodox Great and Holy Synod which may take place, according to a statement of Metropolitan Damaskinos Papandreou of Switzerland, around the year 2000.

Vatican II has let the door open for further development, as may be seen from the appendix, *A Declaration of the Second Vatican Ecumenical Council on Revision of the Calendar* added to the Constitution on Sacred Liturgy *Sacrosanctum Concilium* of December 4, 1963.

#### **Adaptation to the Prevalent Discipline of the Given Place**

*21. Individual faithful dwelling outside the region or territory of their own rite may conform themselves fully to the established discipline of the place where they live as regards the law of sacred seasons. In families of mixed rite, it is permissible to observe this law according to one and the same rite.*<sup>26</sup>

All the faithful are normally obliged to follow their own discipline in regard to the liturgical year everywhere, particularly where they have been living from immemorable times, i. e. in the terminology of Pope Pius XII's motu proprio *Postquam apostolicis* (c. 303 § 1 ≠ 3), the respective oriental region. This is why the decree speaks of (a) *individual* faithful who (b) are dwelling *outside* the region or territory of their own rite, i. e. church *sui iuris*. Under the term "territory", we have to understand here every part of the world where an oriental hierarchy has been established at least in the form of an apostolic exarchate.

26. Cf. Clement VIII, Instr. *Sanctissimus*, August 31, 1595, § 6: "Si ipsi graeci"; S. Congr. Holy Office, June 7, 1637, ad 1 et 3; March 13, 1727, ad 1; S. Congr. Prop. Fide, Decree of August 18, 1913, art. 33; Decree of August 14, 1914, art. 27; Decree of March 27, 1916, art. 14; S. Congr. Orient. Church, Decree of March 1, 1929, art. 36; Decree of May 4, 1930, art. 41.

Hence the United States are not only a Roman Catholic territory, but also a Ukrainian Catholic, Ruthenian Catholic, Melkite Greek-Catholic, Maronite, Romanian Catholic, Armenian, and Chaldean territory, France is a Roman Catholic as well as a Ukrainian Catholic and Armenian Catholic territory etc. (Being within the ancient Roman patriarchate, France is a Roman Catholic region too).

In this context, "territory" received more or less the meaning of "country of emigration" or "diaspora".

In contrast to an oriental region, in an oriental territory the parish organization is often not so developed. The oriental churches having been here for not more than a century, face the problem that a considerable part of their faithful are living far from an established parish church under the jurisdiction of the hierarch of their church *sui iuris*. Consequently these faithful share in the life of a local catholic parish which belongs to another church *sui iuris*, western or eastern, but in most cases Roman Catholic. In such a case, they are permitted to conform themselves to the discipline and practice of their place of residence. Of course, according to the decree, the bishop of these oriental faithful "should have the care of such persons and, strictly regarded, his permission in this matter would be necessary for them"<sup>8</sup>, but as long as these circumstances exist, the oriental faithful can follow the custom of the place and the parish which they usually attend.

The second part of this article relates to those families whose members belong to different churches *sui iuris*. It is certainly also relevant to families living in places of the oriental region, e. g. in the Near East or in South India. One oriental region can be at the same time the region of several individual churches. We have pointed out above, that all the oriental catholic patriarchs exercise jurisdiction in the same realm. In India, the Chaldeo-Malabar and the Syro-Malankara Churches are both having jurisdiction in Kerala and the neighbouring states. Marriages of the faithful of these two churches are not at all rare.

To strengthen the unity of the family, the "domestic peace", as was said above the members of a family are entitled

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8. Cf. M. M. Wojnar, "Decree on the Oriental Catholic Churches" 228.

to make a choice to follow the law of one church *sui iuris* in regard to the celebration of feast days, fast, abstinence, and prohibited times. But this law must be always observed.<sup>9</sup>

This question poses a problem not to the oriental catholic churches only. We find the topic of the observance of sacred seasons and especially the adaptation of the discipline of fast, abstinence, etc. on the agenda of the future Holy and Great Synod of the (Eastern) Orthodox Church. Some of the Oriental Orthodox Churches have already mitigated their rigorous discipline of old, certainly in view of their many faithful scattered now throughout the world, but also in view of the difficulties the faithful may face in observing it within the traditional territories due to the changing circumstances in social life.<sup>10</sup>

### Divine Office

22. *Oriental clerics and religious are to celebrate in accordance with the prescriptions and traditions of their own discipline the Divine Praises which from ancient times have been held in high honour in all oriental churches.*<sup>27</sup> *The faithful too should follow the example of their forebears and assist devoutly as occasion allows at the Divine Praises.*

The term "Divine Praises" (*Laudes Divinae*) is used here to describe what is commonly called the "Divine Office" or nowadays also "the liturgy of the hours". But since "liturgy" in its strict sense means, in the oriental churches, the celebration of the Eucharist, this term was preferred. It carries the same meaning in the future oriental code of canon law also.

The article under consideration does not in itself prescribe anything but is an exhortation to continue or to revive the

27. Synod of Laodicea (347/381), c. 18; Chaldean synod of Mar Isaac (410), c. 15; St. Nerses Klayeci of the Armenians (1166); Innocent IV, letter *Sub catholicae*, March 6, 1254, § 8; Benedict XIV, const. *Etsi pastoralis*, May 26 1742, § 7 5; Instr.  $\neq$  *Eo quamvis tempore*, May 4, 1745, §§ 42ff. and more recent particular synods: of the Armenians (1911), Copts (1898), Maronites (1736), Romanians (1872), Ruthenians  $\leftarrow$  = Ukrainians of Galicia  $\rightarrow$  (1891), Syrians (1888).

9. Ibid.

10. Cf. Mar S. E. Barsoum, *The Golden Key to Divine Worship*, West New York, 1951, 100f.



secular practice of the common sanctification of the day. Therefore not only clerics and religious are mentioned, but also the faithful. Indeed, sanctification of the day does not take place only in the celebration of the Eucharist (this too narrow view certainly caused the multiplication of private Holy Masses and the banning of the Divine Praises into the private spiritual sphere of clerics both in the Roman Catholic and the latinized oriental churches in communion with Rome), but also in the Divine Praises offered to God at certain times throughout day and night. This practice which developed during very early times has its basis in one of the most essential aspects of the church which is, above all, a praying community.

Genuine oriental sources speak only of the *public, communitarian celebration* of the Divine Praises, and this is quite logical for the Divine Praises are not a private pious exercise, but the official prayer of the whole church represented by and in the local community. This is the reason why parishes and monasteries as well as the cathedral churches have to ensure their celebration so as to enable the faithful to assist.

Even the latinized synods of the past, mentioned in the footnote above, acknowledged and encouraged this practice as, more recently, Pius XII's motu proprios *Postquam Apostolicis* (c. 157 §§ 1 and 2) and *Cleri sanctitati* (cc. 76, 157, 401, 508) have done.

The council decree recalls this topic in order to emphasize the fact that the Divine Praises are the prayer of *all the faithful* of whom the clerics and religious are a part. Therefore the praiseworthy custom existing in most of the oriental churches, of celebrating at least a part of the Divine Praises in public, should be fostered or revived. It has fallen into desuetude mostly due to the trend of imitating the Roman Catholics who practically reserved the Divine Praises to clerics and religious, while offering the faithful as a kind of compensation extraliturgical devotions of various kinds called "benediction" or otherwise.

Already in our commentary of 1972, we had written:

"The Council Fathers, irrespective of their allegiance to Rite, wished to revive the understanding of the Divine Office as the official prayer of the Church hence it to be

recited by all the members of the Church, according to the respective traditions and as far as this is possible in the daily life of the parishes and communities.”<sup>11</sup>

That this appeal of Vatican II had not been simply a play on words, but a necessity, may be illustrated by a fact that reveals to what extent an erroneous understanding has dominated in the most latinized milieu of the Chaldeo-Malabar Church even *after* Vatican II: fruit of a romanized and western clerical formation. It also reveals, at the same time, the mentality of an “ultra-clericalism”. While attempts have been made to edit a “Breviary” meant exclusively *for the clergy*, and perhaps for male religious, a committee devoted time and energy to publish a mini-office *for religious sisters*, as if these were another and a lower caste within the people of God. It seems that nobody thought of making the laity share in the prayer of the church.

In contrast to this and in order to enrich spiritual life of those assisting at the celebration of the Divine Praises, the Melkite Church decided to publish an *Anthologion*<sup>12</sup> in four volumes containing the common and the proper of all the liturgical seasons. This edition has the advantage that it can be used everywhere. So far, for the Divine Praises several books were necessary which were available only in monasteries and richer churches. The celebrant had to make a choice from the given texts in order not to prolong the service unduly. A similar edition was prepared also in the Maronite Church<sup>13</sup>. The oriental conscience finds its expression already in the very title of the three volumes which do not only contain the common parts used in the course of a week, but also the proper of everyday and the feasts: *The Prayer of the Faithful*, hence not of the clergy and religious alone. This edition is now available in Arabic, French and English being a revision and simplification

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11. Cf. J. Madey, “Vatican Council II’s Decree on the Eastern Catholic Churches and its ecumenical importance: *Diakonia* 7 (1972) 243.

12. A Greek edition was edited under the auspices of the Congregation for the Oriental Churches: vol. I (1967), vol. II (1974), vol. III (1980), and vol. IV (1986).

13. It was edited in Arabic and French by the Corepiscopus Butros Gamayel and in English by the Diocese of Saint Maron-U. S. A., Brooklyn, New York. The last was published in 1982 (vol. I), 1984 (vol. II), and 1985 (vol. III).

of the old monastic offices. It is, intended for the practical use of the common celebration of the Divine Praises in the parish churches; of course, it *can* be used also in private.

Neither the council text nor the draft text for the future code speaks of an obligation of private 'recitation' of the Divine Praises. We do not deal here with such an obligation, as found in the decisions of the latinized synods of the past, since this was done more than once. In closing our remarks regarding this article, we quote V. J. Pospishil's opinion:

"While Catholic theologians have always maintained that private prayers are indispensable for the preservation of priestly spirit needed for all the clergy, and that the divine office represents the most obvious, best and most beautiful texts for this purpose, and that there exists a moral obligation for the clergy to avail themselves of this treasure, it is also true that the extension of the strict obligation of private recitation of parts of the divine office, as it exists in the Latin rite, to Eastern Catholic Churches was and is to be regarded as an unnecessary transplantation of an alien institution.

As to the obligation in question: it was and is of doubtful legal force, and as such does not oblige."<sup>14</sup>

### Liturgical Language

23. *It belongs to the patriarch with his synod or to the supreme authority of each church with its hierarchical council to regulate the use of languages in the sacred liturgical functions, and, after reference to the Apostolic See, to approve translations of the texts into the vernacular.*<sup>28</sup>

The supreme authority in liturgical matters is according to the tradition of the oriental churches, the patriarch or the major archbishop in union with his synod. In the other churches of oriental tradition, this right is exercised by the supreme hierarch (mostly a metropolitan) together with the council of the hierarchs belonging to his church *sui iuris*. These authorities have also the

28. From the oriental tradition.

14. V. J. Pospishil *Orientalium Ecclesiarum* 59.

right and duty to regulate the use of languages in all the sacred functions.

Since the liturgical rites are not identical with the individual churches, *sui iuris*, the Apostolic See of Rome should be informed about the activities in the field of liturgy, especially about the translations into the vernacular. It is a known fact, that the Byzantine liturgy is common to a good number of individual churches, so also the Syro-Oriental and the Syro-Antiochean liturgies are used by two churches each *sui iuris*. It is desirable, therefore that in countries like the United States of America, Great Britain, France, Germany, Canada, etc., the liturgical texts in the local languages, i. e. English, French or German, for use in the different individual churches of the same liturgical rite be, as far as possible, the same. This is also desirable regarding the Roman liturgy in the vernacular.

In the oriental churches, the question of the use of languages has never played such an important rôle as in the Roman Catholic Church until recently. According to the latter's tradition, Latin was regarded as a sacred language and therefore exclusively admitted.

In the Christian East, Greek, Syriac, Coptic Ghe'ez (ancient Ethiopian), and Armenian can be considered as the classical liturgical languages of non-Roman rite christianity. But from very early times Church-Slavonic and Arabic got a permanent place in the liturgical functions wherever this had proved necessary, and in more recent times other living languages such as Hungarian and Romanian have obtained such a place, to Orthodox missionaries did not propagate their language, but their liturgy.

In the catholic communion, however, the Holy Office issued decrees as late as in 1959 and 1960 which have rather a restrictive character; the reason for these decrees was the permission granted by the Melkite Greek Catholic patriarchate to the Melkite parishes in the United States to use English. The Roman authorities believed that English could not be tolerated in the liturgy, at least as regards the central part of the divine liturgy, the anaphora.

Such restrictions were abolished by Vatican II for the Orientals. The supreme authority of every church was entitled to

regulate the use of languages in the sacred functions everywhere in the world. In course of time, even the Roman Catholic Church, breaking with its own tradition of permitting only Latin, adopted the "oriental custom" allowing gradually the use of the vernacular after due approbation of the translations.

The term "supreme authority" in this article is not quite clear. In liturgical matters, the *ius liturgicum* resides no doubt with the patriarchs or major archbishops with their respective synod. But in the non-patriarchal churches this right is exercised by the Roman Holy See (Congregation for the Oriental Churches). One could say that this is done in virtue of the principle of subsidiarity, because these churches do not possess a synod.

In fact, a synod is much more than a "council of the hierarchs" of an individual church. The latter has, as we have pointed out, no other rights than a simple Roman Catholic Bishops' Conference and it is hard to recognise the *sui iuris* character of a church without a synod. Hence non-patriarchal or non-archiepiscopal churches depend, in regard to the regulation of the use of languages, on the approval of the Holy Roman See.

Of course, they may take the initiative and may – or should – prepare the translations necessary for their faithful living in different countries. They have to do this work also for their own region, if they were using the classical liturgical language so far. But they have to refer their activities to the Roman Holy See before approving the translations.

What is the sense of this "reference to the Apostolic See"? Since oriental liturgies belong to the patrimony of the whole church, the universal church must take care that this patrimony is not defaced. The competent Roman authority therefore is to eliminate possible doctrinal errors in the liturgical texts which may have crept into the translation. It has also to supervise the translation itself in order to ensure that the translation does not become a *new liturgy* using the old name but containing theological views other than those of the original.

It is not at all a matter of conjecture when we state that latinizing elements among oriental catholics have tried to change

the contents and structure of the oriental anaphorae. Some have tried to place the epiclesis *before the Institution Narrative* in order to satisfy their view of transubstantiation as learnt in a non-oriental school of theology, and to assimilate their liturgy more to the new eucharistic prayers of the Roman Catholic Church. Some, while retaining the epiclesis in its original place are playing with the idea of mitigating the clear consecratory expressions in order to emphasize the *moment of consecration* at the recital of the words of institution.

All these attempts are evidently against Vatican II and the Roman authorities have to use a clear *veto*, because those Orientals attempting such essential changes prove that (a) they are estranged from their own ecclesial roots and (b) they do not understand that oriental theology is not used to thinking "in moments" when meditating the divine liturgy, but considers the anaphora as a whole of which the words of institution with the anamnesis and the epiclesis are the supreme points assuring the active communion of the Holy Spirit with each concrete community celebrating Christ's mysteries.

The oriental view is, in my opinion, best expressed as follows: We do not know at which moment the gifts become the body and blood of Christ, but we know that they are the body and blood of our Lord when the epiclesis is over, i.e. when we have completed the anaphora proper.

Hence the work of the Roman Apostolic See is one of protecting oriental liturgies from eventual errors in dogmatic and other respects. Only after the Roman *placet* may the competent authority of the respective individual church approve the translation of its liturgy into other languages.

After an observation of experiments made in regard to liturgy during the past two decades, it can be stated that the "reference" to the Roman Apostolic See is not a "simple information", as it has been the opinion of some commentators. The particular liturgical commission of the Congregation for the Oriental Churches had an active part in this field. Its work can even be considered sometimes as salutary, because it prevented the imposition of fancy ideas by some people on the liturgy of their church when its translation was due.

## CHAPTER VII

### RELATIONS WITH THE BRETHREN OF THE SEPARATED CHURCHES

This part of our decree presents valuable guidelines for the relationship of the Catholic Church (not only of the Eastern Catholic Churches) with other oriental churches and their faithful. Its clear formulation had a great impact on other important documents of the post-Vatican II era, e. g. the *Ecumenical Directory*, and we find this decree also reflected in the common document signed by Pope John Paul II and the Syrian Orthodox Patriarch of Antioch, Mar Ignatius Zakka I Iwas, on mutual pastoral solicitude and assistance.

#### Duty of Promoting Christian Unity

*24. The Oriental Churches in communion with the Apostolic See of Rome have a special duty of promoting the unity of all christians, especially eastern christians, in accordance with the principles of the decree "On Ecumenism" of this holy Synod, by prayer in the first place, and by the example of their lives, by religious fidelity to the ancient oriental traditions, by a greater knowledge of each other, by collaboration and a brotherly regard for objects and feelings.*<sup>29</sup>

There is no question that the unity of christians is the concern of every christian. This is why the draft of the future code of oriental law has a special section "On Ecumenism" about which c. 95 clearly says that the solicitude of the union to be established among all christians is a task of the whole church, especially its pastors.<sup>1</sup> Our article is almost indentical with c. 96 of the draft. It contains several statements which must be considered separately.

For a long time, there was a general impression that the oriental catholic churches were *de facto* excluded from all direct

29. According to the bulls of union of the various oriental catholic churches.

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1. Cf. *Nuntia No. 17*, Vatican City 1983, 62.

ecumenical activities. These were considered to be the realm of the Roman Catholic Church. Certain non-catholic oriental churches, or at least some of their most influential theologians, have regarded the oriental catholic churches as apostates to be brought back into the orthodox fold, if necessary by force or even by command of the Roman pontiff. Among Roman Catholic ecumenists, too, there has been a group treating the oriental catholic churches as if they were some kind of aberration one has to be ashamed of. So it was a real surprise to many that the Fathers of Vatican II did not accept this view but emphasized the ecumenical mission of these churches declaring that they have a *special duty* in the work of reconciling East and West. We are reminded of the prophetic speech the late Patriarch Maximos IV delivered at Düsseldorf, Germany, in 1960. The venerable prelate said:

“The oriental catholic churches are, for christian unity, a mighty and indispensable factor. In spite of our small number, we are fully conscious of being charged with a great mission.<sup>2</sup>

The declaration of the council may have been also a surprise to some of the oriental catholic hierarchs who had so far shown little interest in the issue of ecumenism and had satisfied themselves in organizing their own churches without any regard for the non-catholic churches with which they share a long common history and common traditions.

According to our article, the oriental catholic churches are strictly obliged to promote the unity of all christians, especially the eastern christians. This should be done in accordance with the principles enounced in the decree on ecumenism *Unitatis Redintegratio*. Several guidelines are given as to how the oriental churches are to fulfill this duty.

#### a) Prayer

Christ prayed that his disciples be one (cf. John 17:21). Hence prayer is the most essential means to keep unity and to

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2. The original text entitled “Orient catholique et unite chretienne: Notre vocation oecumenique” appeared in *Proche-Orient chretien* 10 (1960) 291-302; a German and an English translation are available in the book *Die Stimme der Ostkirche (The Voice of the Eastern Church)* edited by the Melkite Greek Catholic Patriarchate in 1952.



reestablish lost unity. The union of separated christians will not be simply the result of human efforts: conferences, discussions, compromises etc. It will be the gift of God's grace; it will become a reality through the operation of the Holy Spirit. We have to pray for this gift incessantly, not only during the so-called Unity Prayer Octave held every year either between January 18 and 25 or between the feast of Ascension and Pentecost. The union of christians is a central aspect of every divine liturgy and finds its expression in the moment of holy communion. We must become conscious of the fact that the "communion of the Holy Spirit" is not yet fully realized as long as the union of christians is not achieved. It is out of this consciousness that some new monastic foundations have made the prayer for the union of churches their central obligation.<sup>3</sup>

#### b) Example of lives

The life of our fellowmen is a school for all of us. A genuine life in the spirit of the gospel is able to attract people of all social classes and give their lives a new direction leading to the union of hearts and beliefs. This aim cannot be achieved by institutions alone, even if they are of the highest standard possessing most modern equipments. What counts is the personal commitment. Therefore all oriental catholics, in the first instance their hierarchs, are called to a profound conversion showing humility and charity to every human being irrespective of his religious or ecclesial affiliation. Everything scandalizing other christians must be avoided. Oriental catholics should be exemplary in celebrating the divine liturgy and the other liturgical Praises, in observing the sacred seasons and fasts, in leading a christian family life, and in helping the poor. They should not boastfully disregard their traditional discipline, e. g. in regard to fasting and abstinence, pretending that this is true "progress" (Have these made them better christians?). It is a fact that the Roman Catholic discipline in this regard is scandalizing non-catholic orientals. Every change in the rules of fasting and abstinence must be seriously motivated.

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3. Cf. "Almanach 1986 de la communauté grecque-melkite-catholique": *Le Lien* 50/3-4 (1986) 230-239. Would it not be appropriate if the Chaldeo-Malabar Church which is so rich in religious vocations, would lead new foundations to this great intention? This church has a sufficient number of active religious congregations and societies and it is not necessary to augment it.

## c) Religious fidelity to the ancient oriental traditions.

The importance of oriental traditions was stressed already in art. 1,5 and 6 of this decree. Now it is repeated here as an *ecumenical task*, too. It is certainly an erroneous policy, if oriental catholics try in various ways – and there are plenty of examples to distinguish themselves from their non-catholic oriental brethren of the same tradition. From history we know that this trend has been alive particularly among those clerics and religious who have had the chance of superior formation abroad. Monasticism was reshaped according to western models. The dress of the clergy was changed and, in some churches, the prelates simply adopted the Roman Catholic prelatical dress; no wonder that the clerics under them followed their example. Even some particularities of the Roman or other western rites were introduced in the name of progress or because those responsible wished to make their church ‘more catholic’. All these, however, do not make a church “more catholic”, but only *hybrid*.

Only a few people have realized that such an attitude has been erroneous and that it works against christian unity. One of them was the Servant of God, Metropolitan Andrew (Count Sheptytsky)<sup>4</sup>, head of the Ukrainian Catholic Church (1900-1944), and he was vigourously opposed by his two comprovincial bishops who defended the westernizing way. But this was before Vatican II.

We are living in the 80's, more than two decades after Vatican II which has rendered the oriental churches in communion with Rome their full citizenship as it were in the universal church. But many of them still are Roman fashions. What are we to think of a *de jure* oriental catholic bishop taking possession of his eparchy, using a Latin biretta! It is rather ridiculous to see even today prelates of an Oriental church – we must add: in India – appearing in public dressed like Roman Catholic bishops, i.e. wearing over their Latin-shaped violet cassock a surplice with a mozzetta and on their head the pileolus (zucchetto). Whom will they impress through their ignorance of their own heritage? Are they only “functioning” as

4. Cf. V. J. Pospishil, “Andrew Sheptytsky – A Great Ecumenist of the 20th Century”: *Christian Oriente* 5 (1984) 152-161.

“ritual” prelates, while essentially remaining western christians? Have they lost their oriental soul? In that case, they should perhaps resign their posts because they are unable to fulfill the mission the universal church has entrusted to them. Let us once again listen to the late Patriarch Maximos IV:

“Certain catholic orientals seem to take pleasure in marking their difference in regard to their brethern of the same rite. They forget that they thus cease to be of any utility for the church, because for the West they are not the East, and for the East they are not the West. Those who, within the catholic church, take pains to latinize our institutions, should understand that, by making us directly so close to Latinism, they scarcely will augment the number of the Latin faithful in a sensible way, while they make lose the catholic church the small number of oriental faithful it has up to now. We are truly interesting for the church alone if we remain *at the same time profoundly catholic and profoundly oriental*.<sup>5</sup> The latinizers work, perhaps not consciously but certainly, against the interests of the catholic church. They seem to prove that a sincere conjunction of these two qualities is impossible within Catholicism lead by Rome.<sup>6</sup>

#### d) Greater knowledge of each other

This is a serious problem. Many christians know but the church in which they are baptized and practise their christian life. There are few exceptions. This is true also of oriental christians: even where they live side by side in the same town or region, they know very little of the others. Among catholics, the orientals generally have a better knowledge of the Roman Catholic Church than Roman Catholics of the Oriental Catholic Churches. Their knowledge, however, of the other oriental churches, catholic and non-catholic, is rather small. A greater knowledge of each other is therefore very important, because it is a prerequisite for collaboration and mutual brotherly regard.

We have always stressed this point. The mentality of regarding one's own church as the whole must be overcome. It is a sign of indifference when members of churches sharing the

5. Emphasis by the author (J. M.).

6. See ann. 2

same liturgical patrimony practically do not know anything of the other churches or have only a superficial knowledge about them. This is often the case with the faithful of the Byzantine or the Syro-Oriental tradition. What does the normal Malabarian know about the Chaldean Church? Or what does the Syrian Orthodox normally know of the Coptic Orthodox Church, although he hears the name of the Pope of Alexandria commemorated in each divine liturgy in token of ecclesial communion? Or what does a Syrian Catholic know of the Armenian Catholic Church? We could prolong the list of questions *ad infinitum*. If such is the situation with those who have ecclesial communion with each other, we can well realize how it is with those who are not in ecclesial communion.

Therefore the clergy and the faithful should receive the necessary information about the different churches within the catholic communion as well as about the oriental churches with which there is no communion yet. This applies to Roman catholics as well as to Oriental Catholics. Oriental Catholics should certainly acquire a knowledge of the church(es) of their brethren of the same rite. The contacts between oriental catholics and orthodox should also be multiplied. There are many fields where they could cooperate, e. g. the common study of the bible, the church fathers and traditions, the liturgy; social and charitable works, prayer meetings, pilgrimages etc. In some places, such contacts have become almost normal, but in many other places a lack of openness towards each other still persists on account of the burden of the past. Hence a lot of work is still to be done. The two parts of the "Ecumenical Directory" could be helpful in overcoming these difficulties. The hierarchies should take a lead in this matter, trusting in the assistance of the Holy Spirit.

### **Reception of Oriental Individuals into the Catholic Church**

25. (a) *If any separated orientals, under the guidance of the grace of the Holy Spirit, come into catholic unity, no more should be required of them than what a simple profession of faith demands.*

(b) *And since a valid priesthood is preserved among them, oriental clerics coming into catholic unity are permitted to*

*exercise their proper order in accordance with the norms established by the competent authority.*<sup>30</sup>

While speaking on the work of ecumenism, the council decree *Unitatis Redintegratio* mentions also the decision of individuals to join the catholic church in which they recognise the church of Christ:

“... The unity, we believe, subsists in the catholic church as something she can never lose, and we hope that it will continue to increase until the end of time.

However, it is evident that the work of preparing and reconciling those individuals who wish for full communion is of its nature distinct from ecumenical action. But there is no opposition between the two, since both proceed from the marvellous ways of God” (*art. 4*).

As long as there are oriental churches outside the communion with the catholic church whose visible community is headed by the Roman pontiff, there will be faithful who, under the mighty impulse of the grace of the Holy Spirit, will seek the fulness of the catholic communion. The admission of these faithful into the catholic church has nothing to do with proselytism. We are here faced with the decisions of individuals who are following their conscience.

It is a fact that members of the catholic church also have joined and still join, for the same reasons, the orthodox church, and there are Western-rite communities in some of the orthodox churches.

The catholic church which understand itself – and the orthodox church sharing in the same traditional basis, does the same – as the *one* and unique church of Christ, has no right to refuse someone if it is convinced that the petitioner has a true religious motive (i. e. he is not wanting to become a catholic only because of certain human dissensions with his pastor or church authorities). Therefore the new code of oriental law will have a special title “On baptized non-catholics coming to the

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30. Synodal obligation with regard to the oriental separated brethren and to all orders of whatever grade of divine as well as of ecclesiastical law.

fulness of the catholic communion", the draft text of which has several canons (cc. 86-94) containing the necessary norms.

a) Our article speaks in its first part on oriental faithful in general and their admission into the catholic church; the second part deals with clerics.

It becomes evident that orientals should not be received into the catholic communion in the same way as Protestants belonging to western communities or denominations. It would not be correct to demand from those oriental christians the renunciation of any part of their religious patrimony. From them only a simple profession of faith is required. The draft text says that "those baptized in some oriental non-catholic church shall be received into the catholic church alone with a profession of the catholic faith after having obtained a doctrinal and spiritual preparation suited to their condition" (c. 89). It is possible that individual persons or groups of faithful seek admission to the catholic church out of their own will (c. 87). For all of them the norms stated in this article and in the future code of canon law are to be equally applied.

M. M. Wojnar who was a member of the council commission preparing the schema of our decree, says:

"The commission and subsequently the council accepted the *simplex fidei professio*. For example: the recitation of the Nicene-Constantinopolitan Creed with some general addition: 'I believe everything the catholic church believes'<sup>7</sup>

Oriental do not have to make any abjuration of errors. There is also no necessity of an absolution from impediments; but if, in certain cases, an absolution seems necessary *ad cautelam*, it could be granted in the form of a blessing, e. g. "I bless you and make you free from any impediment of communion with the catholic church"<sup>8</sup>

b) As regards clerics, the council makes a positive statement: they are to be received into the catholic church in the order each one possesses, and they are entitled to exercise their respective order in accordance with the norms established by

7. M. M. Wojnar, "Decree on the Oriental Catholic Churches" 238.

8. Ibid.

the competent authority. This means that their ordination will not be repeated, but that the competent authority will decide which office they should exercise in the catholic church.

The draft text regulates this issue in cc. 90 and 91.<sup>9</sup>

Canon 90 establishes which authority is competent to receive an oriental christian into the catholic church:

1) A bishop is received into the catholic communion *either* by the Roman Pontiff *or* by the patriarch of the rite of the petitioner, with the consent of his synod, *or* by the metropolitan of the rite of the petitioner who is the hierarchical head of a church "sui iuris", with the consent of the hierarchical council.

2) All other persons, clerics and laymen, may be admitted by the local hierarch, provided the patriarch has not reserved the admission of certain groups of faithful to himself.

3) Laymen may be received by the parish priest, unless the bishop has revoked this right.

Canon 91 is almost identical with the second part of the article of the decree, explaining the role of the bishops who join the catholic church: They may exercise the power of direction (*potestas regiminis*) only with the agreement of the Roman pontiff, the head of the episcopal college.

There is scarcely anything new in this. I. Dick had written earlier:

"Orthodox bishops adhering to the catholic church have to make the profession of faith prescribed in the rite of episcopal ordination. They are considered as members of the patriarchal synod, but deprived of jurisdiction unless they have been made the object of a canonical election and placed on the top of a diocese."<sup>10</sup>

Since oriental christians are not *without a rite*, on becoming catholic, they retain their own rite in the catholic church according to cc. 14 and 16 of the schema "The hierarchical constitution of the oriental churches" (c. 93).<sup>11</sup>

9. Cf. *Nuntia No 17*, Vatican City 1983, 59f.

10. N. Edelby-I. Dick, *Les Eglises Orientales Catholiques* 477.

11. See *Nuntia No. 19*, Vatican City, 1984, 22f.

### Common Participation in Worship

This topic is normally described by the Latin term of *communicatio in sacris*. As the three articles following the general principles of our decree, are most important, we should like to distinguish between communion in worship (*communicatio in sacris*) which is more general and communion in sacramental life (*communio in sacris*). While the first is possible with every christian believer, the latter presupposes a real church with a valid priesthood. The norms pronounced in the following articles did not remain without an echo from the non-catholic oriental churches, though these echos sounded differently. The Old Catholic Communion (the churches united by the Union of Utrecht) has expressed the wish more than once that these articles be applied also to the members of its member churches.

#### (a) General Principles

26. *Common participation in worship which harms the unity of the church or involves formal acceptance of error or the danger of aberration in the faith, of scandal and of indifferencism is forbidden by divine law.*<sup>31</sup> *On the other hand, pastoral experience shows clearly that, as regards our oriental brethren, the different circumstances of individuals may and must be taken into consideration where the unity of the church is not hurt and the dangers that must be avoided are not present, but where the necessity of salvation and the spiritual good of souls are impelling motives. For that reason the catholic church has often adopted and now adopts a milder policy, offering to all the means of salvation and a witness of charity among christians, through participation in the sacraments and in other sacred functions and things. With this in mind, "lest because of the harshness of our judgement we be an obstacle to those seeking salvation"*<sup>32</sup>, *and in order more and more to promote union with the oriental churches separated from us, the sacred synod lays down the following policy.*

The first statement of this article emphasizes the fact that common participation in worship is not at all normal; on the

31. This doctrine is also valid in the separated churches.

32. St. Basil the Great, *Epistula canonica and Amphilochium*: PG 32, 669 B.



contrary, divine law may forbid it strictly. This principle or conviction is also valid in the oriental churches which are not in communion with the Catholic Church. The early church fathers and synods, ecumenical and local, have been very strict in this respect. In the context of formal heresies and schisms, the faithful had to be warned against intermingling with those who had separated themselves deliberately from the body of the Universal church.

Vatican II mentions therefore as prohibited by divine law.

a) the *acceptance of error*. This is in regard to those individuals who actively accept erroneous doctrines contrary to the teaching authority of the church and confirm their attitude by participating in the worship of schismatic or heretical bodies and receiving sacraments there;

b) the *aberration in the faith*. This term describes a development of an individual or a group disregarding the faith of the universal church and accepting the doctrines of certain religious leaders who have broken themselves off from the church;

c) everything connected with *scandal*;

d) the danger of *indifferentism*. In fact, indifferentism is the greatest danger nowadays, as the number of those tending to consider any religion as being of equal value is not small. Even non-christian cults are included in such a view. One can observe this trend even with members of the clergy, some bishops and priests, and of religious institutes. The slogan of "anonymous christians" (K. Rahner) among the believers of non-christian cults and even among non-believers, has become for many a real temptation, especially among the radical partisans of "inculturation", and all of them refer to a so-called "spirit of Vatican II" leaving asside the wording of this council's teaching, as laid down in its different documents.

This trend becomes manifest in the attempts to regard the sacred books of non-christian religions as being of equal value to the books of the Old and the New Testament; this is the reason for their attempts to replace the readings of the revealed Word of God with readings from the above mentioned books. Some even go further: they speak e. g. of a trinity in Hinduism (Brahma, Shiva and Vishnu), they continue using a christian theological

language, but this language is emptied of its christian content, because it compares and identifies what cannot be compared or identified. As a result of such tendencies, syncretistic practices are not only a possibility, but are a reality here and there, especially in India, to the great scandal of the faithful. Here we are faced with a "negative clericalism". All that is indicated above, is clearly prohibited by divine law.

However, for pastoral reasons, and in order to promote unity, the council establishes a milder policy in regard to the oriental churches and christians who are not (yet) in communion with the Catholic Church. Pastoral experience has shown that the different circumstances of individuals must and may be taken into consideration; the necessity of salvation and the spiritual good of souls are the impelling motives for this attitude.

The history of the church offers us many instances proving that sacramental communion, or common participation in worship, has not at all automatically ceased to exist when the ecclesial communion of oriental churches with the church of Rome was interrupted, and this not only in the first millenium, but even as late as the early 18th century. Only in 1729, a decision of the Roman congregation "Propaganda Fide" forbade catholics to participate in the ceremonies of their orthodox brethren. Still in the 17th century, Roman Catholic missionaries sent by the same congregation to the Near East were invited rather often by - materially - 'schismatic' bishops to teach their people, to preach in their churches and to administer the sacraments, particularly that of penance, to their faithful.

"When an orthodox comes to us for confession, we ask him whether he believes everything what the holy Greek fathers Basil, Athanasios, Gregory, Damascenus and others taught, and he answers 'yes'. Then, as their profession of faith is not different from ours with the exception of the word 'Filioque' which we maintain to be a simple declaration of the profession and not an addition, we ask him whether he is understanding the profession in the same sense as all the holy councils and the church fathers understood it.

He answers 'yes'. Thereupon we listen to his confession and give him absolution".<sup>12</sup>

The Jesuits of Aleppo lived, in the early 17th century, at the Melkite orthodox bishop's house and, according to the wish of bishop Meletios Karneh, they were training the candidates for priesthood. Melkite bishops and patriarchs then sent letters containing their profession of the catholic faith to Rome maintaining, at the same time, ecclesial communion with the church of Rome and the orthodox sister churches.<sup>13</sup>

The rigid prohibition of participation in common worship has, as regards the orientals, to be understood as one of the consequences of the disciplinary rules established by the council of Trent (Italy) in order to regulate the sacramental and ecclesial relationship between the Roman Catholic Church and the ecclesial communities which had separated from it during protestant reformation of the 16th century. In course of time, these norms were also applied to the oriental churches remaining outside the ecclesial communion with the church of Rome. This procedure in effect caused more harm to both sides than any advantage to the Catholic Church.

Vis-a-vis the still separated oriental brethren with whom the Catholic Church shares the most essential details of doctrine and sacramental practice, and whose churches possess the hierarchical structure and, before all, a valid sacramental priesthood, the fathers of Vatican II wished to show that they are not outside the church, although their communion is not yet a perfect one. By offering, in case of necessity, the means of salvation to them, the Catholic Church intends to set an example of charity.

Pope St. Pius X had already given large faculties of dispensation from the absolute prohibition of common participation in worship to the then head of the Ukrainian Catholic Church,

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12. "Les Jesuites dans le Levant vers 1650": *L'unite de l'Eglise* 1934, no. 64; the French original text is quoted by N. Edelby-I. Dick, *Les Eglises Orientales Catholiques* 484

13. Cf. Patriarch Maximos V, "Die okumenische Erfahrung unserer Kirche von Antiochien": J. Madey (ed.), *Die katholischen Ostkirchen: Hindernisse oder Brucken auf dem Weg zur Einheit der Christen?*, Fribourg 1973, 12-15.

Metro-politan Andrew (Count Sheptytskyi) of Halych, and he made use of them instructing his priests how to proceed.<sup>14</sup>

It is out of the Church's pastoral solicitude for the salvation of the faithful that Vatican II laid down certain norms regarding common participation in worship which affect oriental catholics and also their non-catholic brethren who in fact cannot be considered nowadays as formal heretics or schismatics who are not in good faith.<sup>15</sup>

(b) Admission to the Reception of Certain Sacraments

(*Communio in Sacris*)

27. (a) *Without prejudice to the principles noted earlier, oriental christians who are in fact separated in good faith from the catholic church, if they ask of their own accord and have the right dispositions, may be admitted to the sacraments of penance, the Eucharist and the anointing of the sick.*

(b) *Further, Catholics may ask for the same sacraments from those non-catholic ministers whose churches possess valid sacraments, as often as necessity or a genuine spiritual benefit recommends such a course and access to a catholic priest is physically or morally impossible.*<sup>33</sup>

This article as well as the following one are of great relevance for inter-ecclesial relationship and are therefore reflected in the first part of the ecumenical directory *Ad totam Ecclesiam* (1967) as well as in the draft "Divine worship, especially the sacraments" of the future oriental code.

It played an equally great rôle in the ecumenical discussions with the Syrian Orthodox Church of Antioch which finally led

33. The basis for this mitigation is considered to be: 1. the validity of the sacraments, 2. good faith and disposition, 3. necessity of eternal salvation, 4. absence of a priest of their own, 5. dangers which are to be avoided and formal adherence to error is excluded.

14. Cf. G. Prokoptschuk, *Metropolit Andreas Graf Scheptyckyj: Leben und Wirken des grossen Förderers der Kirchenunion* Munich<sup>2</sup> 1967, 254f.

15. Pertinent comments on the whole matter were made by M. W. Wojnar, "Decree on the Oriental Catholic Churches" 241-244 and N. Edelby-I. Dick, *op. c.* 482-485.

to a mutual agreement signed by Pope John Paul II and the Syrian Orthodox Patriarch Mar Ignatius Zakka I, permitting both catholics and Syrian orthodox, under certain conditions, to make use of the spiritual and sacramental assistance of the respective sister church.<sup>16</sup>

(a) The text explicitly speaks of the three sacraments of penance, the Eucharist and the anointing of the sick, and only about them. The first part refers to oriental non-catholics who have not formally defected from the catholic church, but were born in the orthodox church believing this church to be the true church of Christ. In a situation where they are deprived of the pastoral solicitude of their own church, these christians may seek the sacraments mentioned above from a catholic priest.

Our decree emphasizes that they must do it of their own accord. This means that they should not be urged e.g. by the local catholic pastor, for this would be regarded by the orthodox church as proselytism. The ecumenical directory of 1967 recommends the catholic hierarchs to allow orthodox christians receive these sacraments, if possible, only after having reached an agreement with the competent orthodox ecclesiastical authority, at least at the local level.

Further it is required that the non-catholic oriental asking for these sacraments have the right disposition which is to be considered normally as a given fact.

This mitigation is not valid for ex-catholics who, after having deserted the Catholic Church, have become members of Orthodox Churches; they are not considered as being "separated in good faith from the catholic church".<sup>17</sup>

(b) Catholics are equally allowed to ask for the same sacraments from ministers of non-catholic oriental churches. The presupposition is that these churches possess valid sacraments. This is normally the case, perhaps with the exception of some orthodox communities in the emigration which may have lost

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16. Cf. the last chapter of our book *Ecumenism, Ecumenical Movement and Eastern Churches*, Kottayam 1987, entitled "The importance and ecumenical relevance of the declaration signed by Pope John Paul II and Patriarch Ignatius Zakka I".

17. Cf. M. M. Wojnar, "Decree on the Oriental Catholic Churches" 246.

apostolic succession, or with other communities styling themselves 'orthodox' but are under the leadership of spurious hierarchs whose ordination is at least doubtful ("episcopi vagantes").<sup>18</sup>

The conditions for the reception of these sacraments are mentioned in our decree itself: absence of a catholic priest or physical or moral impossibility of approaching him, or also a genuine spiritual benefit. Of course, the church from which a catholic wishes to receive these sacraments, must also possess them in its actual practice. For example, the non-catholic Syro-Oriental "Church of the East" (also called 'Nestorian Church') does not practically know auricular confession or anointing of the sick. One cannot expect the non-catholic priest to use another rite to satisfy a catholic approaching him.<sup>19</sup>

The catholic making use of the permission granted by Vatican II is admonished by the ecumenical directory in order to avoid scandal, to adjust to the spiritual practice of the church he is asking the sacraments from. This is particularly valid in respect to the Eucharist which in many churches is preceded by confession, fasting and participation in liturgical services preceding the Divine Liturgy. He also should present himself in advance to the orthodox priest in order to be not eventually turned away at the time of communion. Hence the sensibility of the non-catholic oriental church must be taken into account. In the German edition of an orthodox book of worship<sup>20</sup> published with the blessing of Archbishop George Wagner of the Orthodox Archdioces-Diocesan Administration of the Russian Orthodox churches in Western Europe in the obedience of the Ecumenical Patriarchate of Constantinople (Paris), the editor writes:

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18. A kind of directory of all the oriental non-catholic hierarchs around the globe whose episcopal ordination is regarded by the Catholic Church as valid, is published from time to time by N. Wyrwoll, *Orthodoxia*, and distributed by the Ostkirchliches Institut Regensburg, Ostengasse 31, 8400 Regensburg, West Germany. Explication for the use of this directory are given in Arabic, German, Greek, English, Spanish, French, Serbo-Croatian, Italian, Portuguese, Romanian, and Russian.

19. Cf. M. M. Wojnar (see ann. 2); V. J. Pospishil, *Orientalium Ecclesiarum: Canonical-Pastoral Commentary* 65-69.

20. Heitz (ed.), *Mysterium der Anbetung. Gottliche Liturgie und Stundengebet der Orthodoxen Kirche*, Cologne 1986, 13.

“It is not usual in the Orthodox Church that adults simply go to communion in *other* parishes without having consulted the celebrant in advance. In parishes of Slav origin, adults and children older than seven years, who wish to receive communion, prepare themselves on the eve before by, wherever this is possible, taking part in the Vespers, observing the instructions of their father confessor in regard to fasting and penance, saying the Canon and the prayers of the Fathers before communion. Faithful from other orthodox churches observe the customs existing with them in respect to the preparation for communion.

Faithful who are not belonging to the Orthodox Church, normally cannot be admitted to communion in our parishes, as they do not fulfill the requirement of living in and with our church. As regards individual, particular cases of exception, it is exclusively to the decision and responsibility of the minister of the sacrament. This is why it is indispensable to consult him in advance.”

### (c) Extra-Sacramental Participation in Worship

*28. Further, given the same principles, common participation by catholics with their oriental separated brethren in sacred functions, things and places is allowed for a just cause.*<sup>34</sup>

The ecumenical directory of 1967 which has made these norms a common good to all the Catholics, of an oriental or the Roman Catholic Church, has taken up the contents of this article in nos. 52-54. Of course we find it reflected also in the draft for the oriental code.

Common participation in sacred functions have now become quite normal. The Roman pontiffs themselves have celebrated Services of the Word in Rome at St. Peter's with orthodox patriarchs such as Athenagoras I of Constantinople, Shenuda I of Alexandria (Coptic), Mar Ignatius Yaqōb III of Antioch (Syrian), etc. Last but not least are the ecumenical prayer services held in early 1986 during the visit of Pope John

34. This refers to the so-called “extra-sacramental participation in worship”. The council is granting this mitigation with the obligation to observe the pertinent regulations (*servatis servandis*).

Paul II to India and the common prayer of Christians of different churches and denominations for peace in the world with the personal participation of the Roman Pontiff at Assisi, Italy. These examples have been followed up in many countries throughout the world.

The Ukrainian Catholic and Orthodox Churches practise common participation in extra-sacramental sacred functions very often, particularly in Western Europe: bishops and priests concelebrate Vespers and other services called 'molebens' or 'pannychidas' etc. Of course, each cleric dresses according to his ecclesiastical rank, which conforms to what the Ecumenical Directory says in this respect.<sup>21</sup>

Our article does not deal only with sacred functions, but also of things and places. Many catholic bishops have at once responded to this invitation in a fraternal spirit. In Germany, Belgium, and other European countries, orthodox communities were given a few churches for their exclusive use other churches are at their disposal regularly for certain times or on certain occasions, as may be seen from the church calendar of the Greek Orthodox Metropoly of Germany which belongs to the jurisdiction of the Ecumenical Patriarchate of Constantinople.<sup>22</sup> Many orthodox workers from Greece, Yugoslavia and other countries are living now, mostly for a certain period of time, some even for good, in the countries of the European Community so that the Eastern Orthodox christians are fast becoming the third-strongest christian denomination in West Germany. The same is also the case with Syrian Orthodox people from Tūr 'Abdīn, Turkey, who left their homes because of the religious suppression by their Muslim and Kurdish neighbours; they will certainly settle down in Western Europe and Scandinavia, Great Britain etc. for good.

It is quite in accord with the spirit of Vatican II to render the newcomers all practical and spiritual help as long as such help is needed. In India, the hierarchical head of the Syro-Malankara Church, Archbishop Mar Gregorios of Trivandrum, set

21. Cf. *Ad totam Ecclesiam* no. 51 b.

22. Cf. Hiera Metropolis Germanias, Exarchia Kentroas Europes, *Hemerologion tou etous 1987*, Bonn 1987.



a prominent example in this regard which was highly praised by the Syrian Orthodox Patriarch Mar Ignatius Zakka I during his recent apostolic visit to the hierarchs and faithful of his church in the Indian subcontinent.<sup>23</sup>

This openness of mind is seen also with other orthodox authorities. The Melkite Greek-Catholic Patriarch Maximos V, while visiting his faithful in South America, was invited by the Melkite Orthodox Metropolitans of Argentina and Brazil to celebrate the Divine Liturgy in their respective cathedrals.<sup>24</sup> More than once, the Ukrainian Catholic Apostolic Exarch of France put his cathedral, on certain occasions, e. g. of synods, at the disposal of the Ukrainian Autocephalous Orthodox Church, as the latter's church in the French capital proved too small then.<sup>25</sup> In Turkey, Armenian orthodox and Armenian catholics are using the same churches in places where only one of the two communities owns a church. Some years ago, when the Supreme Catholicate of All the Armenians celebrated its jubilee at Holy Ecmiacin, Armenian SSR, the then Armenian Catholic Catholicos-Patriarch of Cilicia was the official guest of the sister church and could celebrate divine services in Armenian orthodox churches for the Armenian catholics in the USSR deprived of priests of their own for many decades.<sup>26</sup>

We have mentioned but a few of the positive developments which are fruits of Vatican II and can really serve to promote better understanding, confidence and trust, love and union among the oriental christians and churches.

It is fully in line with this development, that the draft "On Ecumenism" of the future oriental code of canon law speaks of the solicitude of the directors of catholic schools, hospitals and such other institutions to offer christians belonging to non-

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23. Cf. D. B. Paul, *Veni, Vidi, Vici: The history of an apostolic visit*, Trivandrum [1982] 98.

24. Cf. *Le Lien* 35/4 (1970) 11 and 22.

25. The quarterly of the Ukrainian Autocephalous Orthodox Church in Western Europe, *Ridna Cerkva*, has regularly reported this. - This quarterly is, by the way, printed in the press "Logos" of the Ukrainian Catholic Apostolic Exarchate of Germany and Scandinavia, Munich.

26 Cf. J. Madey, "Bischof Nerses Mikael Setian, Armenisch-katholischer Exarch für die USA und Kanada": *Der christliche Osten* 41 (1986) 46.

catholic churches all possible opportunities to receive spiritual and sacramental assistance from priests of their own churches. The respective canon is a resume of the statements of the Ecumenical Directory. In this context, no. 61 of this post-Vatican II document is also of relevance:

“If the separated brethren have no place in which to carry out their religious rite properly and with dignity, the local ordinary may allow them the use of a Catholic building, cemetery or church.”<sup>27</sup>

#### (d) Hierarchical Direction of Worship Participation

29. *The conciliatory policy with regard to worship participation (communicatio in sacris) with the brethren of the separated oriental churches is put into the care and control of the local hierarchs, in order that, by combined counsel among themselves and, if need be, after consultation also with the hierarchs of the separated churches, they may by timely and effective regulations and norms direct the relations among christians.*

The regulation of the common participation in worship, including sacred places and things, was left by the council Vatican II to the local hierarchs and not to the decision of individual clergymen.

The term “local hierarchs” can be understood in a double sense:

(a) the *individual* hierarch, oriental or Roman Catholic, is responsible for the regulation of the inter-ecclesial relations in his own canonical circumscription; of course, for practical reasons, he will consult the neighbouring hierarchs in such an important matter, but the final responsibility will reside with him. Since in the patriarchal churches, the hierarchical synods constitute the supreme authority in all matters pertaining to the patriarchate (and are not explicitly reserved to the Roman pontiff), the establishment of the norms certainly falls within the synod’s competence. The same is valid also for the major archiepiscopates (cf. art. 9 of our decree).

(b) *Local hierarchs* – in the plural – are all the hierarchs of the churches *sui iuris* enjoying (personal) jurisdiction in the same

27. Cf. *Ad totam Ecclesiam* nos. 52, 53, 62, 63.

territory. These hierarchs are invited to have consultations among themselves in order to obtain a common practice in this matter. This is valid not only for eastern countries where multi-jurisdiction has been established for long, but also for every part of the world where oriental catholics are not under Roman Catholic jurisdiction.

It would certainly be a strange and scandalous spectacle, if certain things were to be allowed e.g. in the Syro-Malankara eparchy of Tiruvalla and, at the same time and in the same places, prohibited in the Chaldeo-Malabar metropolitan eparchy of Changanacherry or the Roman Catholic diocese of Vijayapuram (and vice versa).

The catholic hierarchs are also admonished – and, if possible, this should be the rule to avoid any false impression of proselytism – to get in touch with the competent hierarchs of the non-catholic oriental churches to discuss this problem that they may “by timely and effective regulation and norms direct the relations among christians”.

Time seems to be not yet ripe for worldwide regulations. Much progress has been made so far in the relations between the Catholic Church and the Syrian Orthodox Church of Antioch. On the other hand there were sharp reactions from more than one Eastern Orthodox Church, when the Patriarchate of Moscow had pushed forward by establishing some norms of sacramental *communio in sacris*, similar to those contained in our decree, in regard to Catholics and the so-called ‘Old Believers’ living in the USSR. The Secretariat for Promoting Christian Unity, Rome, was then duly informed and this was quite in the spirit of nos. 42 and 43 of the Ecumenical Directory *Ad totam Ecclesiam* where much emphasis is laid on reciprocity, at least at the local level. However, this positive step of the Patriarchate of Moscow, which had certainly been the work of the then head of the Department for interecclesial relations, the late Metropolitan Nikodim Rotov of Leningrad and Novgorod (+1978 in the Vatican during an audience with Pope John Paul I who followed him into eternity a few days later), was unilaterally revoked by the Synod of the Patriarchate of Moscow in 1986. This repeal was only in regard to catholics, under the pretext that this issue would be solved

by the future Panorthodox Great and Holy Synod which has been under preparation for 20 years now.

### Conclusion

*30. This Sacred Synod feels great joy in the fruitful zealous collaboration of the eastern and western catholic churches and at the same time declares: all these directives of law are laid down for the present circumstances till such time as the Catholic Church and the separated eastern churches come together into complete unity.*

*Meanwhile, however, all christians, eastern and western, are earnestly asked to pray to God fervently and assiduously, nay, indeed daily, that, with the aid of the most holy Mother of God, all may become one. Let them pray also that the strength and the consolation of the Holy Spirit may descend copiously upon all those many christians of whatsoever church they be who endure suffering and deprivations for their unwavering avowal of the name of Christ.*

*Love one another with fraternal charity, anticipating one another with honour (Rom. 12, 10).*

Finally, the council fathers express their joy because of the fruitful and effective collaboration of the catholic churches of the east of the west. We have to add, in most parts of the world. Unfortunately, India with its ancient christianity tracing its origin to the evangelization of St. Thomas the Apostle, seems to be an inglorious exception. It is a pity that the Roman Catholic hierarchy of India is, even now, more than twenty-two years after the promulgation of this decree, vehemently opposed to applying it in their motherland. One cannot ignore this shameful attitude in the name of christian charity, as injustice should not have a place among christians, particularly among those who are in full communion.

A second point is noteworthy: this decree would be valid only for the duration of the existing separation between the Catholic Church and the vast majority of the oriental churches. After the reestablishment of full communion within the one Church of Christ, which will not be a result of our human plans, but the work of the Holy Spirit promised and given to the

Church of our Lord, a new order will regulate the relations between the individual churches or churches *sui iuris*. In the meantime, all the christians of whatever church, oriental or western, are earnestly exhorted to pray to God fervently and assiduously, in communion with and through the intercession of our Lord's mother, "that all may be one" (John 17, 21).

This prayer may be lifted up to God for the many christians of the different churches in communion with the church of Rome as well as for those churches which are not yet in full communion, many of whom have to endure sufferings and oppression and – as the Decree on Ecumenism says, "who give testimony for Christ, sometimes to the last drop of their blood" (art. 4), that the Holy Spirit strengthen and console them in their actual circumstances.

And our decree ends with the exhortation of the Apostle: "Love one another with fraternal charity, anticipating one another with honour" (Rom. 12, 10), and we can only respond sincerely with the words of the Byzantine liturgy, "that *with one mind we may confess* the Father, the Son and the Holy Spirit, Trinity one in substance and undivided".

*Each and all of these matters which are laid down in the decree have been approved by the Fathers. And we, by the apostolic power given by Christ to us, and in union with the venerable Fathers, approve, decree and prescribe them in the Holy Spirit, and we order that what has been laid down in synod (= by the council) is to be promulgated to the glory of God.*

*Rome, at St. Peter's,  
on the 21st day of the month of November in the year 1964*

*Ego PAULUS Catholicae Ecclesiae Episcopus  
(I, PUAL, Bishop of the Catholic Church)*

*Follow the signatures of the Fathers.*

#### NOTIFICATION

*The supreme Pontiff has ordered that the legal force of the Decree On the Oriental Catholic Churches be deferred for the time of two months, authorizing, however, the patriarchs to reduce or prolong it for a just reason.*

*† Pericles Felici  
Tit. Archbishop of Samosata  
Secretary General  
of the S. Ecumenical Council of Vatican II*

According to this provision, the decree has become law in most of the oriental catholic churches on January 22, 1965. In the Syro-Maronite patriarchate, it was deferred until January 1, 1967. So it has been valid everywhere in the world for more than 20 years now and there is no excuse for anybody to resist its application.

### Concluding Remarks

An international congress on *The Second Council of Vatican (1959-1965)* took place in Rome from May 28 to 31, 1986 at which Archimandrite Ignatius Dick of the Melkite Greek-Catholic clergy of Aleppo, Syria, gave a remarkable talk on *Vatican II and the Oriental Catholic Churches*. Here is an excerpt from that talk:

“After 20 years, which impact has had the decree ‘Orientalium Ecclesiarum’ on the life of the Church? Certainly, much has been changed, and we find it hard to imagine the preconciliar mentality. His Holiness John Paul II is surely influenced by the decree of the council, when he affirms so often ‘that the oriental tradition and the occidental tradition converge, the one as well as the other, in the unique great Tradition of the Universal Church’, that the church ‘must breathe with its two lungs, Orient and Occident’, that ‘unity does not mean absorption, not even amalgamation’.<sup>1</sup>

In his encounter with the Catholic Bishops’ Conference of India in New Delhi, during his recent journey in early February, John Paul II has promised to give a just solution to the grievances of the oriental hierarchy of India. The oriental catholics are gaining more and more the esteem and the sympathy of their occidental brethren. Oriental hierarchies begin to be established in different regions of emigration.

There remain, however, strong centres of resistance. At the latest extraordinary synod, the oriental hierarchies have frankly expressed their grievances.<sup>2</sup>

1. Encycl. *Slavorum Apostoli* (June 2, 1985) no. 27.

2. Cf. the text of the interventions in *Le Lien* 51/1 (1986) 28-37.

A simple decree cannot change immediately mentalities and hearts and oppose itself to habitudes anchored in a long practice. A long work of internal renewal imposes itself on all.

We also expect that the new oriental codification confirms the principal declarations of the council, especially the restoration of the patriarchal rights as they were before the schism.

If the patriarchs and their synods are said to be the superior authority for all the matters of the patriarchate, the administrative body of the Congregation for the Oriental Churches must certainly be alleviated.

Before the schism, the popes dealt directly with the patriarchs questions of major importance. In the beginning of modern times, on the occasion of the reestablishment of union, the oriental catholics were joined to the Congregation of the Propaganda. Pius IX began a reform which lead, under Benedict XV, to the foundation of a special Congregation for the Oriental Churches in 1917. Vatican II demands a new reform, a new step forward.

The oriental catholic churches have done a lot for Vatican II and Vatican II has done a lot for the oriental catholic churches. But what the council has decided must go over into the law and into the life of the church. We, Orientals, are concerned first, but a particular responsibility is incumbent on western theologians, the Roman administration and the Latin hierarchy.

The oriental churches carry the first responsibility of bearing witness to Christ's cross and resurrection in very difficult regions. They are a bridge connecting the contemporary church with its primitive roots.

Besides, the oriental catholic churches attest the universality and the full catholicity of the church. They are manifesting the possibility to live the holy and venerable tradition of the Orient in the communion with the church of Rome.

Their responsibilities are enormous and they have the right to expect esteem, sympathy and help from their occidental brethren.<sup>3</sup>

We fully share the views of the Archimandrite quoted above. In fact, the decree on the oriental catholic churches has its great importance for the Catholic Church as a whole. It has opened the eyes of many to the existence of several individual churches of different origin and traditions which have the right and the obligation to develop themselves according to their own genius. The existence of this reality enables the church of Rome to enter into a serious dialogue with the churches which are not in communion with it, especially the orthodox churches, those who accept the council of Chalcedon as well as those who do not.

Thus, taking into consideration the articles of this decree, together with those of the decree on ecumenism and the ecumenical directory, the way opens itself before our eyes for reestablishing "the communion in charity" (St. Ignatius of Antioch) of the still separated churches of the Orient and the Occident. When that happens the oriental catholic churches will re-integrate themselves into their churches of origin, because, as a simple religious sister once put it, "after the reunion, the catholics will be orthodox and the orthodox catholics"<sup>4</sup>.

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3. The whole talk is published in *Le Lien* 51/5-6 (1986) 55-64; our translation begins on p. 62.

4. Quoted by O. Kerame, "Catholiques et Orthodoxes bientôt reunis?": *Bulletin d'Orientations oecumeniques*, nos. 23-24 (Beirut 1959) 198. The late Greek Orthodox Patriarch Athenagoras I said to a group of 87 German youths in his cathedral at the Phanar, Istanbul, on April 6, 1965: "I regard you as orthodox and myself as a catholic by force of the spiritual paternal love." See *Der christliche Sonntag* 17 (Freiburg 1965) 179.

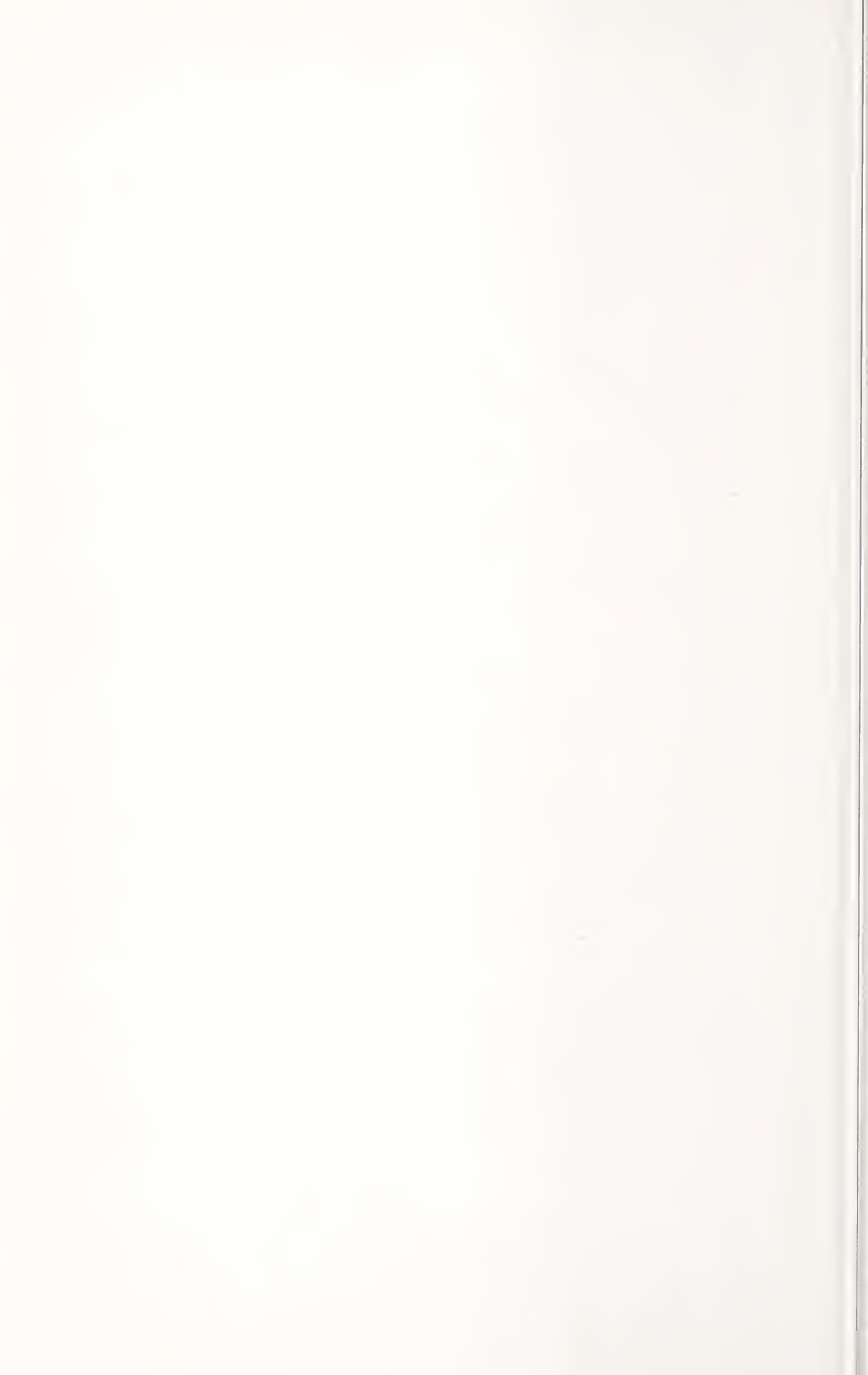


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